

Draft Guidance for Implementing the Optional Property-Based Approach to Exempting Consideration of Effects to Rail Properties within Rail Rights-of-Way under Section 106 of the National Historic Preservation Act

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Contents

1	Background and Purpose	1
1.1	Summary and Applicability	1
1.2	Key Definitions	2
1.3	Benefits of the Property-Based Approach	5
1.4	Overview of the USDOT OA Review and Approval Process	6
2	Project Sponsor Notifies USDOT OA of Intent to Pursue Property-Based Approach	9
3	Developing a Proposal to Designate Excluded Historic Rail Properties	11
3.1	Define Scope and Study Area	11
3.2	Conduct Research on Rail Properties within Study Area	11
3.3	Develop Proposal	14
3.4	Coordination with SHPOs, THPOs, Indian tribes, and/or NHOs	14
3.5	Evaluate Historic Rail Properties	14
3.6	How to Identify and Evaluate Excluded Historic Rail Properties	23
4	Project Sponsor Submission	32
5	USDOT OA Review and Approval	35
6	Addressing Stakeholder Comments	37
7	Use of USDOT List of Excluded Historic Rail Properties in Future Section 106 Undertakings	38
	Attachment A: Checklist for Project Sponsors Submitting a Proposal to Designate Excluded Historic Rail Properties	41

1 Background and Purpose

The Advisory Council on Historic Preservation (ACHP) issued the *Program Comment to Exempt Consideration of Effects to Rail Properties within Rail Rights-of-Way* (Program Comment) on August 17, 2018.¹ The U.S. Department of Transportation (USDOT)² submitted the Program Comment to ACHP pursuant to Section 11504 of the Fixing America's Surface Transportation (FAST) Act. The Program Comment is an alternative means for Federal agencies to fulfill their responsibilities under Section 106 of the National Historic Preservation Act, as amended (54 U.S.C. 306108), for undertakings affecting rail properties within railroad and rail transit rights-of-way (rail ROW). As required by the Program Comment, USDOT is publishing this Guidance for implementing the property-based approach.

The property-based approach is *flexible*. Project Sponsors can choose to evaluate all rail properties in their study area, or focus on a particular rail property type(s).

This guidance document is not legally binding on regulated entities in its own right and will not be relied upon by USDOT as a separate basis for affirmative enforcement action or other administrative penalty. Conformity with this guidance document is voluntary only, and nonconformity will not affect rights and obligations of regulated entities under existing statutes and regulations.

Summary and Applicability

The Program Comment established two methods for exempting consideration of effects to rail properties located within rail ROW: an activities-based approach and a property-based approach.

Activities-based approach – Under the activities-based approach, undertakings to maintain, improve, or upgrade rail properties located in rail ROW and that are limited to the activities specified in Appendix A³ to the Program Comment are exempt from Section 106 review. The list includes a variety of activities that, based on USDOT experience conducting Section 106 reviews for transportation-related undertakings, are likely to result in minimal or no adverse effect to historic properties. This approach went into effect on August 17, 2018, the date the Program Comment was approved by the ACHP.

Property-based approach – The property-based approach is an optional approach allowing a Project Sponsor to propose, and the relevant USDOT operating administration (OA) to designate, “excluded historic rail properties” within a specified study area. The properties included on USDOT’s list of excluded historic rail properties would remain subject to Section 106 review, application of *Appendix A: Exempted Activities List*, or application of another applicable Section 106 program alternative, depending on the nature of the undertaking. Under this approach, effects to all other evaluated rail properties in the study area that are not designated

¹ Advisory Council on Historic Preservation. August 24, 2018. [Notice of Issuance of Program Comment to Exempt Consideration of Effects to Rail Properties within Rail Rights-of-Way](#). 83 Federal Register 42920, pp. 42920-42929.

² The effort was led by the Federal Railroad Administration (FRA) in coordination with the Federal Transit Administration (FTA), the Federal Highway Administration (FHWA), and the USDOT Office of the Secretary.

³ [The Appendix A: Exempted Activities List](#).

as excluded historic rail properties by a USDOT OA would be exempt from Section 106 review – regardless of the Project Sponsor, the Federal agency responsible for the undertaking, the type of undertaking, and the nature of effects.

Project Sponsors interested in using the property-based approach may work with one or more of the USDOT OAs, i.e., the Federal Railroad Administration (FRA), the Federal Transit Administration (FTA), and/or the Federal Highway Administration (FHWA), to identify excluded historic rail properties. The USDOT OAs are responsible for designating excluded historic rail properties, following a Project Sponsor's efforts to identify and evaluate rail properties, and providing an opportunity for public review and comment. USDOT will maintain a list of excluded historic rail properties that have been designated by the USDOT OAs; the list can be used by any Federal agency, including those outside of USDOT, in Section 106 undertakings affecting rail properties located in rail ROW. As required by the Program Comment, the USDOT OA will designate excluded historic rail properties within a Project Sponsor's defined study area within 12 months of receipt of an adequately supported proposal from a Project Sponsor. Once all rail properties in a study area have been evaluated and a USDOT OA has designated the excluded rail properties within that study area, no other rail properties within that study area will be added to the USDOT list.

The Program Comment applies to undertakings, whether advanced by a USDOT OA or another Federal agency, that may affect rail properties located within rail ROW. The Program Comment does not apply to undertakings within undisturbed portions of rail ROW that may affect archaeological resources of any kind, rail-related properties located outside of the rail ROW, non-rail properties located within the rail ROW, historic properties of religious and cultural significance to Indian tribes or Native Hawaiian organizations (NHOs), or are located on or would affect historic properties on tribal lands.

As required by the Program Comment, the purpose of this Guidance is to:

- Provide instruction and examples for evaluating rail properties for potential designation as excluded historic rail properties;
- Describe the process by which a Project Sponsor may propose excluded historic rail properties to a USDOT OA, including early coordination between the Project Sponsor and the USDOT OA;
- Establish timeframes for USDOT OA review of proposals and designation of excluded historic rail properties; and
- Establish public involvement methods.

This Guidance also specifies the type of information that should be included with a Project Sponsor's proposal to designate excluded historic rail properties to a USDOT OA, and explains how the USDOT list of excluded historic rail properties may be used in future Section 106 undertakings.

Key Definitions

The following terms are defined in Section V of the Program Comment and included in this Guidance for ease of reference.

Railroad and Rail Transit Rights-of-Way (rail ROW) – Land and infrastructure that has been developed for existing or former intercity passenger rail, freight rail, and rail transit operations, or that are maintained for the purpose of such operations. Rail ROW includes current and/or former railroad or rail transit lines regardless of current ownership and whether there is rail

service operating on the railroad or rail transit line. It includes property that was previously developed for railroad or rail transit use even though the infrastructure has been modified or removed, and the property may lack visual evidence of previous railroad or rail transit use. It does not include land that was never developed for railroad or rail transit use. Rail ROW includes and may be identifiable by the presence of infrastructure that has a demonstrable relationship to the past or current function and operation of a railroad or rail transit system that commonly includes, but is not limited to, the rail properties listed in the text box on page 4 of this Guidance.

Study Area – Portion of rail ROW defined by a Project Sponsor within which rail properties are evaluated for historic significance under the property-based approach. It may be delineated by: location (e.g., state, county); name of rail corridor, railroad, rail transit system or line; or mile-post information.

Rail Properties – Infrastructure located within rail ROW that has a demonstrable relationship to the past or current function and operation of a railroad or rail transit system. [A non-exclusive list of rail properties is provided in the text box on page 4 of this Guidance.]

Excluded historic rail properties - Historic properties that illustrate the history of the development of the nation's railroads or rail transit systems and:

1. Are at least 50 years old, possess national significance, and meet the National Register of Historic Places (National Register) eligibility criteria as defined in 36 CFR 60.4;
2. Are less than 50 years old, possess national significance, meet the National Register eligibility criteria, and are of exceptional importance;
3. Were listed in the National Register, or determined eligible for the National Register by the Keeper of the National Register (Keeper) pursuant to 36 CFR Part 63, prior to the effective date of the Program Comment and retain eligibility as determined by the USDOT OA; or
4. Are at least 50 years old and meet the National Register eligibility criteria at the state or local level of significance, as determined by the USDOT OA.

Excluded historic rail properties are historically important because they illustrate the history of the development of the nation's railroads or rail transit systems, and therefore warrant consideration under Section 106.

More information regarding how to evaluate the historic significance of rail properties under the property-based approach is provided in Section 3.5 of this Guidance.

Project Sponsor – An entity such as a state, tribal, or local government, joint venture, railroad commission, compact authority, port authority, transit agency or authority, or private company that is eligible to receive Federal financial assistance (e.g., grant, loan). A Project Sponsor may also be an entity that requires a Federal permit, license, or approval to carry out a proposed activity in rail ROW (e.g., a permit under Section 404 of the Clean Water Act issued by the Army Corps of Engineers (USACE) or a permit under Section 9 of the Rivers and Harbors Act of 1899 issued by the United States Coast Guard (USCG)).

RAIL PROPERTIES

The following are examples of properties that have a *demonstrable relationship* to the function and operation of a railroad or rail transit system.

- Rails, tracks, and ties
- Rail beds and ballast
- Signal and communications systems
- Switches
- Overhead catenary systems
- Signage
- Traction power substations
- Passenger stations and depots, including associated infrastructure and utilities
- Freight transfer facilities
- Boarding areas, platforms, and canopies
- Bridges, culverts, and tunnels
- Retaining walls
- Ancillary facilities
- Ventilation structures
- Equipment maintenance and storage facilities
- Railyards and rail transit yards
- Parking lots and structures for rail use
- Landscaping and passenger walkways
- Security and safety fencing

Rail properties do not include:

- Residential, commercial, or municipal buildings adjacent to the rail ROW, even if they were built as a result of railroad or rail transit operations.
- Property unrelated to existing or former railroads and rail transit lines that is proposed to be used for new rail infrastructure (i.e., “greenfield construction”).

Benefits of the Property-Based Approach

The advance identification of excluded historic rail properties is intended to make the Section 106 review for individual undertakings more efficient. While the property-based approach requires a Project Sponsor to commit an initial investment of time and resources, it can narrow the range of properties for which Federal agencies have to consider effects under Section 106 to those that are designated as excluded historic rail properties by a USDOT OA. Effects to rail properties that were evaluated under the property-based approach and not designated as excluded historic rail properties by a USDOT OA would not be subject to Section 106 review, thereby expediting a Federal agency's approval of projects affecting such properties. The property-based approach allows Project Sponsors and transportation and historic preservation stakeholders to focus their time and resources on ways to avoid, minimize, or mitigate adverse effects to excluded historic rail properties that are important in illustrating the history of railroad and rail transit development in the United States.

Project Sponsors may benefit from the property-based approach because it could expedite Section 106 reviews for undertakings that are not included in the *Appendix A: Exempted Activities List*, such as undertakings involving the demolition or substantial alteration of rail properties, through the early identification of rail properties located in rail ROW that illustrate the history of the development of the nation's railroads and rail transit systems.

There is a wide variety of Project Sponsors, with varying needs, missions, and priorities. The property-based approach is likely beneficial for Project Sponsors who frequently carry out projects in the same portion of rail ROW using Federal funding, require a Federal permit, or otherwise trigger a Section 106 review, because this approach essentially results in the completion of the identification and evaluation step of the standard Section 106 process ahead of any particular undertaking. See Table 1 for additional example benefits of the property-based approach.

Can a Project Sponsor use the activities-based approach and the property-based approach together?

Yes.

All activities listed in the Program Comment *Appendix A: Exempted Activities List* are exempt from Section 106 review, even if an excluded historic rail property may be affected. USDOT has determined through experience that these activities result in effects to historic rail properties that are minimal or not adverse. Therefore, these activities can be performed on excluded historic rail properties without compromising the integrity of such properties and retaining the transportation function for which they are historically important. See Section 7 for examples of how the two approaches may be used together.

TABLE 1: EXAMPLE BENEFITS OF THE PROPERTY-BASED APPROACH

Project Sponsor	Approach	Potential Benefits
A transit agency that regularly receives Federal grants to maintain and improve its infrastructure on a particular commuter rail system.	Advance identification of all historically significant rail properties along the commuter rail system.	Eliminates the requirement to identify historically significant rail properties for every individual undertaking.
A private railroad company that has several water crossings within its rail ROW and anticipates implementing a program to substantially repair or demolish and replace aging bridges and culverts, which may require permits from USACE or USCG.	Advance identification of all historically significant rail bridges and culverts within the program area.	<ul style="list-style-type: none"> Streamlines Section 106 review over the timeline of the repair/replacement program because the Project Sponsor would know ahead of time which bridges and culverts would and would not be subject to Section 106 review. Allows the Project Sponsor to focus its efforts on ways to avoid, minimize, or mitigate unavoidable adverse effects to any bridges and culverts that are considered excluded historic rail properties.

Overview of the USDOT OA Review and Approval Process

The key steps in the review and approval process for carrying out the property-based approach are outlined below and in Figure 1. Detailed information for each step is provided in subsequent sections.

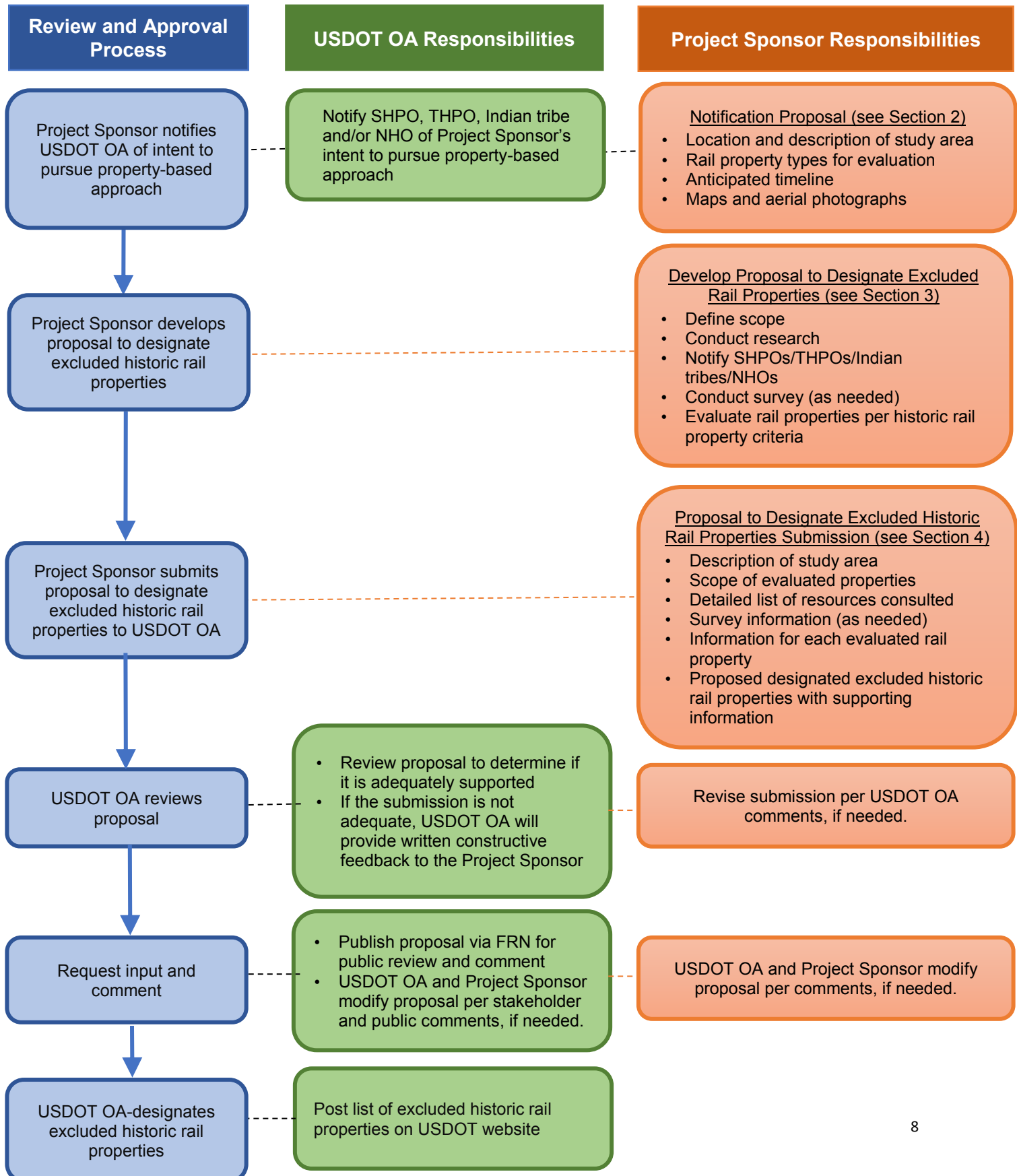
- 1. Project Sponsor notifies USDOT OA of intent to pursue property-based approach (Section 2):** The Project Sponsor should notify the appropriate USDOT OA, specifically FRA, FTA, and/or FHWA, of its intent to pursue the property-based approach *before* developing a proposal to designate excluded historic rail properties.
- 2. Project Sponsor develops proposal (Section 3):** The identification and evaluation of rail properties in the study area is a multi-step effort.
- 3. Project Sponsor submits proposal to USDOT OA (Section 4):** The Project Sponsor submits its proposal to designate excluded historic rail properties to the appropriate USDOT OA.
- 4. USDOT OA reviews proposal and requests input and comment (Section 5):** Upon receipt of a Project Sponsor's proposal to designate excluded historic rail properties, the USDOT OA will review the submission for adequacy. In making this determination, the USDOT OA will notify and request input, as appropriate, from State Historic Preservation Officers (SHPOs), Tribal Historic Preservation Officers (THPOs), Indian tribes, and/or NHOs. The USDOT OA may also seek input from other stakeholders, as appropriate. Once the USDOT OA has determined that the Project Sponsor's submission is sufficient, it will make the proposed excluded historic rail properties available for public review and comment.

5. **USDOT OA designates excluded historic rail properties (Section 5 and 6):** Following the comment period, the USDOT OA will modify the proposal to designate excluded historic rail properties, as necessary and appropriate, based on stakeholder and public comments. As required by the Program Comment, the USDOT OA will designate excluded historic rail properties within a Project Sponsor's defined study area within 12 months of receiving an adequately supported proposal from a Project Sponsor.
6. **The USDOT list of excluded historic rail properties is available for use (Section 7):** USDOT will maintain a list of excluded historic rail properties designated by the USDOT OAs. The list will be published on USDOT's website. The list may be used by any Federal agency - including an agency that is not part of USDOT - that has Section 106 responsibility for an undertaking or a program of projects affecting rail properties in rail ROW.

For planning purposes, a USDOT OA may issue a periodic "call for interest" to Project Sponsors to identify those who may be considering pursuing the property-based approach. This will help the USDOT OA gauge the number of Project Sponsors who intend to pursue this approach, the Project Sponsors' anticipated timeframes for submitting a proposal to the USDOT OA, and the amount of time, staff resources, and technical assistance the USDOT may need to provide in working with Project Sponsors. The USDOT OA will use its discretion to prioritize the review of submitted proposals.

The USDOT OAs have, or have access to, Secretary of the Interior (SOI)-qualified professionals in Architectural History, Architecture, Historic Architecture, or closely related disciplines to provide oversight of this process.

FIGURE 1: ROLES AND RESPONSIBILITIES IN THE PROPERTY-BASED APPROACH PROCESS



2 Project Sponsor Notifies USDOT OA of Intent to Pursue Property-Based Approach

The Project Sponsor should notify the appropriate USDOT OA of its intent to pursue the property based approach *before* developing a proposal to designate excluded historic rail properties. This section explains what the Project Sponsor should consider in its notification.

Typically, the source of USDOT funding or other approval will inform which USDOT OA(s) a Project Sponsor should coordinate with when pursuing the property-based approach. For example, a rail transit agency that owns and/or operates commuter rail service would coordinate with FTA. Entities such as state DOTs or private railroad companies receiving financial assistance or requiring permits for projects involving intercity passenger or freight rail would coordinate with FRA.⁴ A state DOT seeking to make safety improvements under the Railway-Highway Crossings program would coordinate with FHWA.

Certain Project Sponsors may routinely receive funding from more than one USDOT OA; in such cases, they should consider the nature of the study area, anticipated future projects, and anticipated USDOT funding sources and notify all relevant OAs of their interest in pursuing the property-based approach. Once notified, the USDOT OAs will coordinate to determine the most reasonable submission process and the roles of each USDOT OA, including whether there will be one lead USDOT OA or co-leads.

A Project Sponsor's notification to the USDOT OA of its intent to pursue the property-based approach should include the following information:

- The location and a brief description of the proposed study area. The study area is the portion of the rail ROW in which rail properties will be evaluated by the Project Sponsor for historic significance. This may include an entire rail corridor, a transit system, a segment of a railroad or rail transit line, etc. (see Section 3.1 for more details on defining the study area). The notification should include sufficient information regarding the geographic scope of the study area and anticipated number of rail properties therein. The notification should also indicate which entity(ies) own the rail ROW and operate rail service on the rail ROW within the study area.
- Indicate whether the identification of proposed excluded historic rail properties will include all rail properties within the study area or will focus on a specific property type(s) (see Section 3.1 for more details on defining the scope).
- Anticipated timeline for starting and completing the property-based approach, following the steps outlined in this Guidance. This should include timeframes for key steps such as data gathering (including performing background research and/or physical survey), coordinating with stakeholders as appropriate, evaluating rail properties for historic significance, and submitting its proposal to the USDOT OA.

⁴ In cases where the Project Sponsor is a private railroad company and the Section 106 trigger is typically a permit issued by a non-USDOT Federal agency (i.e., a Section 404 permit issued by USACE or a bridge permit issued by the USCG) rather than financial assistance provided by USDOT, the Project Sponsor should coordinate with FRA. In such cases, FRA may notify the non-USDOT Federal agency of the Project Sponsor's intent to pursue the property-based approach. FRA may request that these agencies share information with FRA and the Project Sponsor regarding rail properties in the study area. However, FRA would remain responsible, in accordance with the Program Comment, for working with the Project Sponsor to designate excluded historic rail properties.

- Maps and/or aerial photographs illustrating the study area.

The USDOT OA will review the notification and notify the Project Sponsor in writing when it may proceed with the next steps in the process. Because the scope and scale of each property-based effort may vary widely, the USDOT OA will typically provide an initial response to the Project Sponsor within two weeks of receiving the Project Sponsor's notification; however, this initial response from the USDOT OA may include additional steps and/or timeframes regarding the USDOT OA's review of the notification.

Once the USDOT OA has determined that a Project Sponsor's notification is sufficient and notified the Project Sponsor that it may proceed with the next steps in the process, the USDOT OA may notify the appropriate SHPO, THPO, Indian tribe, and/or NHO of the Project Sponsor's intent to pursue the property-based approach.

Once the USDOT OA has notified the Project Sponsor, the Project Sponsor may proceed with the process outlined in the following sections of this Guidance at any time; however, a USDOT OA's ability to provide technical assistance upon request and review a Project Sponsor's proposal may be impacted by the volume and scope of proposals received by a USDOT OA at a given time.

3 Developing a Proposal to Designate Excluded Historic Rail Properties

This section explains the responsibilities of the Project Sponsor in developing a proposal to designate excluded historic rail properties. In developing a proposal, it is critical that the Project Sponsor considers how rail properties may illustrate the history of the development of the nation's railroads or rail transit systems (see Section 3.5).

Define Scope and Study Area

The Project Sponsor must clearly define the portion of rail ROW within which to evaluate rail properties for historic significance (i.e. study area).⁵ The Project Sponsor can define the study area in several ways. Some examples include:

- Location: defined by a geographical area such as a city, county, or state;
- Rail line: defined by the name of the rail corridor, the railroad line, or rail transit system/line; or
- Rail line segment: defined by specific locations along a rail line, such as between mile posts.

A Project Sponsor may choose to evaluate all rail properties within the study area or focus on a particular rail property type or types within a study area (e.g., bridges, culverts, stations and depots).

Decisions regarding the scope of a particular property-based effort and defining the study area should be based on the Project Sponsor's anticipated needs, i.e., the kinds of activities it anticipates implementing over time that would normally trigger Section 106 and the types of rail properties that would be affected by those activities. Project Sponsors may find it beneficial to pursue the property-based approach for rail properties that are likely to be affected by activities included in a state's Long-Range Statewide Transportation Plan, State Rail Plan, or other capital planning initiatives.

Is there technical assistance available to Project Sponsors with questions about the property-based approach?

Yes.

USDOT OAs can assist Project Sponsors with answering questions about the overall process; choosing and defining a study area; methodologies or strategies for conducting background research, stakeholder outreach, and surveys; and provide preliminary feedback on adequacy and level of effort. USDOT OAs may also be able to provide supplemental information on rail properties if readily available in project files. However, USDOT OAs are not responsible for conducting any survey and identification or evaluation efforts.

Conduct Research on Rail Properties within Study Area

The Project Sponsor may identify all rail properties or a particular type(s), as noted above, within the defined study area. There are a variety of sources of information that Project Sponsors may use, as described below.

Background Research

Project Sponsors should conduct background research to identify and evaluate the potential historic significance of rail properties within their defined study area. This research will typically include

⁵ ACHP. August 24, 2018. [Notice of Issuance of Program Comment to Exempt Consideration of Effects to Rail Properties within Rail Rights-of-Way](#). 83 Federal Register 42920, Section IV(A)(1)(a).

information on the types of rail properties and their construction and design, their history of use, and alterations over time.

Project Sponsors should use a variety of available sources to conduct background research. Sources for background research may include, but are not limited to:

- Previous historic property evaluations. These may be available when a portion of rail ROW and/or rail properties have previously been evaluated for historic significance as part of previous Federal undertakings or state or local historic preservation efforts. Previous historic property evaluations may include:
 - SHPO inventory files and National Register eligibility opinions
 - Previous cultural resource surveys of rail properties in the study area
 - National Register nomination forms and listings
 - Historic context studies⁶
 - National Register eligibility determinations by Federal agencies for past projects
 - Historic American Building Survey (HABS) listings
 - Historic American Engineering Record (HAER) listings
 - State and local historic landmark inventories or listings
- Information on railroad and rail transit-related history
 - Railroad and rail transit-related publications (such as books, articles, newspapers, and newsletters)
 - Railroad company and rail transit agency records
 - Repository collections (such as libraries, museums, universities, or archives)
- Knowledgeable persons
 - SHPO, THPO, Indian Tribes, NHOs⁷
 - Railroad and rail transit employees
 - Railroad/rail transit professional and enthusiast organizations, publications, and websites
 - Railroad/rail transit historical societies and historic preservation organizations, including state and local historic preservation organizations and commissions
 - Officials from Certified Local Governments (CLGs)⁸
- Historic maps, photos, aerial views, and drawings
 - Historic atlas maps

⁶ These include FTA's June 2017 [Historic Context Report for the Transit Rail System Development](#). An accompanying list of [National Register-listed or eligible rail transit properties](#) will be made available on FTA's website.

⁷ For more information about [consultation with tribes and NHOs](#).

⁸ For information on the [Certified Local Government program](#), jointly administered by the NPS and SHPOs.

- Fire and insurance maps (e.g., Sanborn maps)
- Survey and assessors' maps
- Photographs of rail properties
- Historic aerial photographs showing the rail ROW
- Drone flyovers, video from train-mounted cameras, or use of other technology
- Architectural and engineering drawings (including HABS/HAER)

Physical Survey

It may be necessary for the Project Sponsor to arrange for a physical survey of the study area be conducted, especially if there is little or no available information about rail properties within the study area or the available information is outdated. The survey will identify existing rail properties in the study area to evaluate for inclusion in the Project Sponsor's proposal to designate excluded historic rail properties. Before beginning a survey, a Project Sponsor should coordinate with the appropriate SHPO(s), THPO(s), Indian Tribe(s), and/or NHO(s) and other appropriate entities that have expertise regarding rail properties to see if any previous surveys have been conducted in the study area. This will help identify gaps in the available survey information and what additional information may be needed to ensure all rail properties or particular types of rail properties are sufficiently identified.

When a physical survey is conducted, it should be thorough and complete to allow for proper identification and evaluation of rail properties within the study area. Generally, surveys fall into one of two categories: reconnaissance-level survey ("windshield survey"), which provides an overview of rail properties in the study area; and intensive-level survey, which includes property-specific intensive assessments.

There is no "one size fits all" survey requirement for the property-based approach. The level of survey needed will be determined by the needs of the Project Sponsor and available information. Project Sponsors should also consult with the appropriate USDOT OA to help determine the appropriate level and method of survey. Project Sponsors are also encouraged to refer to the relevant SHPOs' state-specific survey guidelines or the National Park Service (NPS) publication *Guidelines for Local Surveys: A Basis for Preservation Planning*.⁹ In addition, Project Sponsors are encouraged to use the relevant SHPO's inventory forms, photography guidelines, etc. to record rail properties identified during survey.

Physical surveys must be conducted by, or under the direction of, a SOI-qualified professional in Architectural History, Architecture, Historic Architecture, or closely related discipline.¹⁰ NPS has published a set of Professional Qualification Standards (48 FR 44716), which define minimum education and experience levels for the fields of archaeology and historic preservation.¹¹ Many SHPOs maintain a list of SOI-qualified professionals, which a Project Sponsor may refer to when hiring a qualified consultant.

⁹ NPS. 1985. National Register Bulletin 24. [Guidelines for Local Surveys: A Basis for Preservation Planning](#).

¹⁰ ACHP. August 24, 2018. *Notice of Issuance of Program Comment to Exempt Consideration of Effects to Rail Properties within Rail Rights-of-Way*. 83 Federal Register 42920, Section IV(A)(1)(c).

¹¹ The [Professional Qualification Standards](#) can be found in this link.

Develop Proposal

A Project Sponsor will use the results of the background research and/or physical survey to identify rail properties in the study area. Next, the Project Sponsor will evaluate those properties to determine if they illustrate the history of the development of the nation's railroads and rail transit systems and propose whether or not they should be considered excluded historic rail properties (see Section 3.5 for the criteria for evaluating excluded historic rail properties and Section 4 for more information about what to include in a proposal to designate excluded historic rail properties for submission to the USDOT OA).

Coordination with SHPOs, THPOs, Indian tribes, and/or NHOs

In developing its proposal, a Project Sponsor must notify and request input from the appropriate SHPO, THPO, Indian tribe(s), and/or NHO(s) regarding rail properties within the study area.¹² This communication should occur as early in the identification and evaluation process as practicable, to allow time for meaningful input by knowledgeable parties. Project Sponsors are encouraged to give SHPOs, THPOs, Indian tribes, and/or NHOs at least 30 days to respond. This early coordination could result in information sharing that makes more effective a Project Sponsor's effort to identify and evaluate rail properties in the study area and helps ensure Project Sponsors are aware of and have access to existing sources of information. The formal opportunity for SHPOs, THPOs, Indian tribes, NHOs, other knowledgeable parties, and the public to review and comment on proposed excluded historic rail properties will be when the USDOT OA publishes a Federal Register Notice (see Section 5).

Evaluate Historic Rail Properties

The Project Sponsor will use the information gathered in Section 3.2 to evaluate whether or not the rail properties identified in the study area should be considered excluded historic rail properties proposed for inclusion on the USDOT list.

There are established practices within the historic preservation profession that guide the evaluation of rail properties. This section addresses how historic context, areas of historic significance, the criteria for evaluation of types of significance, and resource integrity contribute to the evaluation and identification of excluded historic rail properties. Project Sponsors are encouraged to use existing professional sources in their evaluation of the historic significance of rail properties. Such sources include the following sections of National Register Bulletin 15: Section V: "How to Evaluate a Property within its Historic Context," and Section VI: "How to Identify the Type of Significance of a Property."¹³

To be considered an excluded historic rail property, a property must illustrate the history of development of the nation's railroads or rail transit systems; possess adequate integrity to convey its importance within the relevant area(s) of significance; and meet one of the following criteria, which are further described later in this section.¹⁴

An excluded historic rail property must be:

¹² ACHP. August 24, 2018. *Notice of Issuance of Program Comment to Exempt Consideration of Effects to Rail Properties within Rail Rights-of-Way*. 83 Federal Register 42920, Section IV(A)(1)(c).

¹³ NPS. 1995. National Register Bulletin 15. [How to Apply the National Register Criteria for Evaluation](#).

¹⁴ ACHP. August 24, 2018. *Notice of Issuance of Program Comment to Exempt Consideration of Effects to Rail Properties within Rail Rights-of-Way*. 83 Federal Register 42920, Section V(B); and 36 CFR 60.4

1. At least 50 years old, possess national significance, and meet the National Register eligibility criteria as defined in 36 CFR 60.4;
2. Less than 50 years old, possess national significance, meet the National Register eligibility criteria as defined in 36 CFR 60.4, and be of exceptional importance (as defined by National Register Criteria Consideration G – see Section 3.5.3);
3. Listed in the National Register, or determined eligible for the National Register by the Keeper pursuant to 36 CFR Part 63, prior to the effective date of the Program Comment (August 17, 2018), and retain eligibility as determined by the USDOT OA; or
4. At least 50 years old and meet the National Register eligibility criteria as defined in 36 CFR 60.4 at the state or local level of significance, as determined by the USDOT OA.

Historic Context

The historic significance of a rail property can be evaluated and explained only when considered within its appropriate historic context. The primary criteria for determining whether or not a rail property should be designated as an excluded historic rail property by a USDOT OA is whether the property illustrates and contributes to our understanding of the history of the development of the nation's railroads and rail transit systems.

The nation's rail ROW, and the rail properties located therein, have a long history in the United States dating back to the mid-1800s. Each railroad and rail transit system has its own unique history of construction and operation, including private or public ownership; periods of economic success; opening of key markets or geographic areas; and improvements, acquisition, and consolidation or abandonment. Rail properties can illustrate this history in several areas, including but not limited to the following: architecture, engineering, transportation, technology, commerce and industry, community planning and development, entertainment/recreation, ethnic heritage, social history, and military history.

While there is no single nationwide historic context for railroads, many have been developed by states or regions as standalone context statements, National Register Multiple Property Documentation Forms, and/or accompanied by a resource survey. Examples from several states are provided in FRA's 2013 report to Congress entitled *Streamlining Compliance with Section 4(f) of the Department of Transportation Act and Section 106 of the National Historic Preservation Act for Federally Funded Railroad Infrastructure and Improvement Projects*.¹⁵ A historic context for rail transit system development is presented in FTA's *Historic Context Report for the Transit Rail System Development*.¹⁶

Significance

The historic significance of a property can take many forms. Sometimes the historic significance is readily identifiable, such as a high-style, downtown railroad station. In other cases, significance may be less apparent, for example, properties that exemplify innovative engineering or that were integral to a social movement.

¹⁵ FRA. March 2013. [*Streamlining Compliance with Section 4\(f\) of the Department of Transportation Act and Section 106 of the National Historic Preservation Act for Federally Funded Railroad Infrastructure and Improvement Projects*](#).

¹⁶ FTA. June 2017. [*Historic Context Report for Transit Rail System Development*](#).

The NPS uses Areas of Significance, or themes, to help categorize the various types of historic significance. These Areas of Significance comprise patterns of community development that are particularly important in American history. A property can have multiple Areas of Significance.

The most relevant Areas of Significance for historic rail properties are Architecture, Engineering, and Transportation.¹⁷

Architecture

Rail properties significant in the area of architecture exhibit the characteristic features of a building type, architectural style, time period, and/or construction method, or the rail property may have been designed by prominent and influential architects and engineers.

Examples

- The Lake Railroad Station in Lake, Mississippi is the only known extant Queen Anne style railroad depot in the state and one of the few examples of this architectural style in the town. It is listed in the National Register under Criterion A as an important symbol of the railroad that provided the impetus for the development of the town, and Criterion C for its high-style use of Queen Anne features.¹⁸
- Germantown Junction Station in Pennsylvania, a regional railroad and rail transit station also known as North Philadelphia Station, was the first station along the Northeast Corridor built in the Châteauesque style. The property meets Criteria A and C as an uncommon example of the use of this architectural style for rail stations – a trend which only enjoyed brief popularity at the end of the nineteenth century – designed by a well-known Philadelphia architect for the Pennsylvania Railroad. At the turn of the twentieth century, the Pennsylvania Railroad Company was the largest railroad company in the country.¹⁹

Engineering

Rail properties significant in the area of engineering may exhibit a unique or monumental innovative design or construction technique that enabled a railroad or rail transit system to overcome an engineering challenge created by terrain, geological conditions, or climate. In contrast to the examples provided below, ubiquitous rail properties, such as concrete culverts, that followed common standard plans are unlikely to be considered excluded historic rail properties.

Examples

- Rockville Bridge, spanning the Susquehanna River between Rockville and Marysville in Pennsylvania, was the longest stone arch railroad bridge in the world when it was completed in 1902. It was listed in the National Register under Criteria A and C, in recognition of this engineering feat, and as a long-term investment by the Pennsylvania Railroad on its main line. At a time when many railroads utilized steel trusses, it represented the net benefit to the

¹⁷ The full list of Areas of Significance can be found in National Register Bulletin 15: [Section V: “How to Evaluate a Property within its Historic Context”](#).

¹⁸ [National Register of Historic Places Inventory – Nomination Form, Lake Railroad Station, Lake, Newton and Scott Counties, Mississippi, National Register #84002346](#).

¹⁹ [National Register of Historic Places Inventory – Nomination Form, Germantown Junction Station, Philadelphia, Philadelphia County, Pennsylvania, National Register #92000940](#).

Pennsylvania Railroad Company of off-setting labor-intensive traditional construction with fewer ongoing maintenance needs.²⁰

- The Cascade Tunnel at Steven’s Pass, Washington bore through nearly eight miles of rock under the Cascade Mountains and was completed in only three years. It opened in 1929 and remains the longest railroad tunnel in the country. The structure was listed as a contributing resource to a historic district encompassing an area that was heavily modified by the Great Northern Railway in their efforts to create a direct route to a coastal port. This district was listed in the National Register under Criteria A and C. The Cascade Mountains created a major hurdle to completing this route; when a large-scale series of switchbacks over the terrain at Steven’s Pass did not perform well, two tunnels were bored through the mountains instead.²¹
- Construction of the Hoosac Tunnel in western Massachusetts, which took place between 1851 and 1875, was the first known large-scale use of trinitroglycerin (TNT) for railroad tunnel construction. Still in use as of 2019, the tunnel was vital to the establishment of the Western Railroad, linking Boston to New York and points west. By 1895, well over half of Boston’s exports were routed through the tunnel. It is listed in the National Register under Criterion A.²²

Transportation

Rail properties that served as prototypical models for railroad or rail transit system construction or community planning may be important in the area of transportation. While all rail corridors provided links between destinations, those significant in the area of transportation may have served as an early route that heralded the development of an entire network, or that provided a critical link between two commercial centers.

Examples

- The Arabella Station Car barn in New Orleans, Louisiana covers nearly a full city block and once served almost all the streetcar lines west of Canal Street. It was constructed during the rapid expansion of the transit network prompted by the establishment of electric streetcar lines.
- The construction of the Knoxville Southern Railroad Historic District in Polk County, Tennessee provided a crucial link between copper mines and commercial centers in the state.

Other Areas of Significance

Though less common, rail properties may be significant in the areas of commerce, community planning and development, entertainment/recreation, ethnic heritage, social history, and military.

Examples

- Travel by rail played a major role in the country’s history of segregation. On June 7, 1892, Homer Plessy, a biracial man, purchased a ticket on an intercity train in New Orleans and sat in a car designated as “whites only.” He was arrested and charged with violating Louisiana’s 1890

²⁰ [National Register of Historic Places Inventory – Nomination Form, Rockville Bridge, Marysville, Dauphin County, Pennsylvania, National Register #75001640](#); [Historic American Engineering Record PA-524](#).

²¹ [National Register of Historic Places Inventory – Nomination Form, Stevens Pass Historic District, Berne, King County, Washington, National Register #76001884](#).

²² [National Register of Historic Places Inventory – Nomination Form, Hoosac Tunnel, North Adams, Berkshire County, Massachusetts, National Register #73000294](#).

Separate Car Act that separated passengers by race, and became the defendant in the landmark Plessy vs. Ferguson Supreme Court case that established the “separate but equal” doctrine upholding segregation. Properties associated with the system, such as the Press Street Railroad Yards, may be significant in the area of social history.²³

- Significance in the area of commerce and economic development is illustrated by the First Transcontinental Railroad, which created a coast-to-coast railroad route that opened up the American west for economic development. Although the rails and ties have been replaced and the roadbed has been upgraded, rail service operates today over portions of the original route.²⁴

National Register Criteria for Evaluation

Established by the NPS, the National Register Criteria for Evaluation are the standards for evaluating a property’s type of historic significance. Properties listed in the National Register, or determined eligible for listing in the National Register, must convey historic significance under at least one of these four criteria.

Criterion A: Events

Properties can be eligible for the National Register if they are associated with events that have made a significant contribution to the broad patterns of history.

Considerations for rail properties evaluated under Criterion A

- Was the rail property important to local, statewide, or nationwide transportation history of the region? Why was it constructed? Did it provide transportation between major cities, or serve as a link between different transportation modes?
- Did the rail property play an important role in the economic growth (commercial, industrial, agricultural, tourism) of the region/state?

²³ FTA. June 2017. [Historic Context Report for Transit Rail System Development](#), pg. 60.

²⁴ Several areas of the First Transcontinental Railroad system are listed in the National Register, generally under Criterion A, due to the importance of the route in expanding economic, travel, and recreational opportunities. For some examples, see: [National Register of Historic Places, Niles Canyon Transcontinental Railroad Historic District, Fremont, Sunol and Pleasanton, Alameda County, California, National Register #10000843](#); [National Register of Historic Places, Transcontinental Railroad Grade, Corinne, Box Elder County, Utah, National Register #94001423](#); and the [National Register of Historic Places, Central Pacific Railroad Grade Historic District, Park Valley, Box Elder County, Utah, National Register #87000699](#).

- Most railroads and rail transit networks provided an impetus for the growth of local communities along its corridors. Is there evidence that the surrounding built environment was designed specifically to accommodate the rail corridor? Are nearby buildings oriented toward the rail ROW? What municipal and regional planning efforts helped establish the associated railroad or rail transit line?
- Was the rail property associated with events that are important to a group sharing a common ethnic or racial identity?
- Was the rail property associated with a significant event in military history such as providing a vital wartime supply network, or a memorable stopping point for large numbers of military trainees?
- Was the rail property integral to the opening of key markets or geographic areas? While most rail properties were important to local, statewide, or nationwide economic history, some rail properties proved essential to the development of an entire industry and/or economy that substantially altered the course of development in a region. Other rail properties may have been purpose-built to provide networking opportunities for a specific industry. Was the rail property developed specifically to carry passengers for leisure activities, or to reach a location notable for recreation, sport, or coastal amenities?
- Did the rail property represent a shift in a state's social history or was it directly associated with the history of unionization in the country?

What is an “eligible” property?

A property that meets one or more of the National Register Criteria for Evaluation, but is not officially listed in the National Register.

During project planning, it is important to remember that not every historically-significant property is already listed in the National Register. Some properties have not gone through the formal nomination and listing process, and new historic properties are continuously being identified. To account for this, Section 106 of the National Historic Preservation Act considers both National Register-listed properties and properties that are eligible for listing as equally historically significant.

Criterion B: Persons

Properties may be eligible for the National Register if they are associated with the lives of persons significant in our past.

Considerations for rail properties evaluated under Criterion B

- Most railroad properties will not be eligible under Criterion B. They were often corporate undertakings, or the result of cooperation among multiple influential leaders. Because rail properties are typically associated with multiple people, it is uncommon that a rail property will best illustrate a specific individual's historically significant contributions.
- While a rail property may be a significant or representative work of an important architect or engineer, these properties are usually most appropriately evaluated under Criterion C.

Criterion C: Design/Construction

Properties may be eligible for the National Register if they embody the distinctive characteristics of a type, period, or method of construction, or they represent the work of a master, possess high artistic

values, or represent a significant and distinguishable entity whose components may lack individual distinction.

Considerations for rail properties evaluated under Criterion C

- Was the architect, builder, engineer, or fabricator of the rail property well-known and/or influential in their field? If so, is the property a significant example of their work, or did it reflect standard design, materials, engineering, and/or construction techniques?
- While many rail properties followed a set of common design plans used by the carrier/operator, or utilized standard design, materials, or construction techniques, individual properties may display unique qualities or design characteristics. High-style, unusual, or distinctive designs may be considered masterpieces within the portfolio of a particular architect or firm.
- Does the rail property exhibit the character-defining historic features of the time period, architectural style, and/or property type?
- What design or engineering challenges were overcome to build the property? Did the design or construction of the property present an innovative solution to a specific topographic or geographic obstacle to transportation connectivity? Did the property serve as a “proof of concept” design that resulted in the adoption of similar design and engineering principles, construction methods, or materials for similar properties in the state, region, or nationwide?
- Many rail corridors contained segments that presented some construction challenge; however, certain rail properties can exhibit solutions necessary to overcome a substantially difficult terrain, climate, topography, or geological conditions.
- Is the rail property representative of the evolution of railroad or rail transit development over time? Are there features present that exemplify multiple time periods?
- Is the rail property an exceptional or uncommon example of its type?

Criterion D: Information Potential

Properties may be eligible for the National Register if they have yielded, or may be likely to yield, information important in prehistory or history. Criterion D refers to archaeological resources, which are not covered by the Program Comment. Therefore, for purposes of the property-based approach, rail properties would not be evaluated under this criterion.

Criteria Considerations

While the National Register Criteria for Evaluation are designed to apply to a wide range of property types, there are certain property types and characteristics that normally preclude a property from being listed in the National Register. A property that falls into one of these categories may still be listed in the National Register under specific circumstances. Lettered A through G, these seven “Criteria Considerations” are used to support and supplement the eligibility of properties that are otherwise excluded from consideration under the National Register Criteria for Evaluation (A-D).²⁵

Many of the criteria considerations are not applicable to rail properties. The primary criteria considerations for evaluation of rail properties are Criteria Considerations B and G.

²⁵ The full list of Criteria Considerations can be found in [National Register Bulletin 15: Section VII: “How to Apply the Criteria Considerations”](#).

Criteria Consideration B

A building or structure removed from its original location, but which is primarily significant for architectural value, or which is the surviving structure most importantly associated with a historic person or event.

Relocation of rail properties is generally carried out as part of routine maintenance or upgrades and would not necessarily meet Criteria Consideration B. However, if a rail property is a scarce or significant architectural type, it may warrant further evaluation under Criteria Consideration B.

Criteria Consideration G

A property achieving significance within the past 50 years if it is of exceptional importance.

Recognition of the potential historic significance of rail properties that are less than 50 years old is reflected in one of the excluded rail property criteria, “Exceptional Importance.” Evaluations of properties less than 50 years old should consider whether there is enough available information on historic context of the rail property to assess the historic importance, impact, and value of the resource.

Integrity

In addition to meeting one or more of the criteria described in Section 3.5.3, to be considered an excluded historic rail property, a property must possess adequate integrity to convey its importance within the relevant area(s) of significance identified for the property in Sections 3.5.1 and 3.5.2. This means that the property must retain the physical features and associations that relate to its significance.²⁶

The NPS defines seven categories of integrity, referred to as “aspects of integrity.” These aspects of integrity include the qualities of the property itself as well as the setting or environment in which it is located.

Location

Location is the place where the historic property was constructed or the place where the historic event occurred.

Considerations for evaluating the integrity of location for rail properties

- Is the rail property in its original location?
- If the rail property or properties being evaluated comprises a linear segment, is the

National Register Bulletin 15: How to Apply the National Register Criteria for Evaluation lists the following steps for assessing the integrity of a property:

- Define the essential physical features that must be present for a property to represent its significance.
- Determine whether the essential physical features are visible enough to convey their significance.
- Determine whether the property needs to be compared with similar properties.
- Determine, based on the significance and essential physical features, which aspects of integrity are particularly vital to the property being nominated and if they are present.

²⁶ See [National Register Bulletin 15: Section VIII: “How to Evaluate the Integrity of a Property”](#), as well as 36 CFR 60.4.

alignment intact and discernible in its historic location, even if some minor changes have occurred along the overall alignment?

Setting

Setting is the physical environment of a historic property.

Considerations for evaluating the integrity of setting for rail properties

- As railroads and rail transit lines are by nature infrastructure/transportation resources, they function largely independently of the evolving built environment surrounding them. Therefore, integrity of setting is generally not considered as important to rail properties as integrity of materials, design, and location.
- However, if a rail property is a contributing resource to a non-railroad historic district characterized by integrity of setting, then integrity of setting may be considered important in the evaluation of that rail property.
- Modern development near a rail property usually will not affect the property's integrity of setting.

Design

Design is the combination of elements that create the form, plan, space, structure, and style of a property.

Materials

Materials are the physical elements that were combined or deposited during a particular period of time and in a particular pattern or configuration to form a historic property.

Workmanship

Workmanship is the physical evidence of the crafts of a particular culture or people during any given period in history or prehistory.

Considerations for evaluating the integrity of design, materials, and workmanship

- Rail properties that are regularly replaced or upgraded as part of routine maintenance, such as tracks or ballast, are generally not individually eligible for the National Register but may contribute to a group or district of rail properties. If so, integrity of design, materials, and workmanship for these specific property types, which are routinely altered, are less important than the integrity of design, materials, and workmanship of major built resources in the district. The loss of physical features of properties that are routinely altered will reduce the integrity of the rail district as a whole, but this diminishment is not usually enough to disqualify the entire district from National Register eligibility.
- Is the rail property largely intact, with sufficient historic features to identify it with a property type, architectural style, construction method, and/or time period? Have alterations substantially removed or obscured major design elements of the property? If innovative engineering or design features are part of the importance of the rail property, are these features intact?
- If evaluating a railroad or rail transit corridor as a linear district, the corridor does not have to be entirely intact along the entire route. It must be present at multiple locations, however, to be discernible as a rail corridor.

Feeling

Feeling is the property's expression of the aesthetic or historic sense of a particular period of time.

Association

Association is the direct link between an important historic event or person and a historic property.

Considerations for evaluating the integrity of feeling and association for rail properties

- Is the rail property intact and distinguishable as a rail-related resource?
- Does the rail property convey its historic role as a rail-related resource from the time period within which the property was significant?

Integrity of Previously-Listed or Eligible Properties

To be considered an excluded historic rail property, a property that is listed on the National Register or was determined eligible by the Keeper must retain integrity and continue to convey the significance as described in its National Register nomination form or the Keeper's written eligibility determination, and/or as supplemented by new information that may have become available about the rail property or its historic context. The Project Sponsor should provide documentation to the USDOT OA for any rail property(ies) that may have lost its integrity, following the guidelines provided in Section VIII "How to Evaluate the Integrity of a Property" in the *NPS National Register Bulletin 15*.²⁷

The USDOT OA will review the documentation provided by the Project Sponsor and determine whether the rail property has lost integrity for purposes of the Program Comment. Rail properties that have lost integrity since the time of their listing on the National Register or Keeper's determination would not meet the criteria set forth in the Program Comment and would therefore not be designated as excluded historic rail properties by a USDOT OA.

How to Identify and Evaluate Excluded Historic Rail Properties

This section explains how to apply the aforementioned concepts – historic context, areas of significance, evaluation criteria, and integrity – to rail properties that Project Sponsors evaluate under the property-based approach. To be considered an excluded historic rail property, a property must meet one or more of the four criteria described in this section: National Significance; Exceptional Importance; Listed in the National Register or Determined Eligible by the Keeper and retaining integrity as determined by the USDOT OA; or State or Local Significance as determined by the USDOT OA.²⁸

National Significance

This category includes rail properties that:

- Illustrate the history of the development of the nation's railroads or rail transit systems
- Are at least 50 years old
- Meet the National Register eligibility criteria as defined in [36 CFR 60.4](#); and
- Possess a national level of significance through one of the following:

²⁷ NPS. 1995. [National Register Bulletin 15. How to Apply the National Register Criteria for Evaluation](#).

²⁸ ACHP. August 24, 2018. *Notice of Issuance of Program Comment to Exempt Consideration of Effects to Rail Properties within Rail Rights-of-Way*. 83 Federal Register 42920, Section V(b).

- Designated a National Historic Landmark;
- Designated a Historical Civil Engineering Landmark by the American Society of Civil Engineers;
- Identified as nationally significant in its National Register listing or nomination, and supported by the Project Sponsor's background research and confirmed by the USDOT OA; or
- Determined by the USDOT OA, based on information provided by a Project Sponsor, to have significance at the national level.

Based on the National Historic Landmark Criteria (36 CFR 65.4), the quality of national significance may be ascribed to rail properties that possess exceptional value or quality in illustrating or interpreting the history of the development of railroads and rail transit systems, that possess a high degree of integrity of location, design, setting, materials, workmanship, feeling, and association.

To fit this category, a rail property with national significance should possess some quality that is individually recognized as representing an aspect of the railroad or rail transit history of the United States as a whole. It may have exceptional architectural distinction, or be recognized as an extraordinary engineering achievement. An example may be a railroad bridge that is recognized as a paramount example of a particular style or type, an engineering “wonder,” or a rail segment with unusual engineering techniques that served as a prototype or overcame challenges posed by terrain, geology, or climate.

Considerations for Evaluating National Significance

- Does the property illustrate an important aspect of the development of transportation in the United States as a whole, or for a region of the country? How does the property help us understand and appreciate the nationwide impact of railroads and rail transit development? For example, did the rail property promote the economic growth of or establishment of communities in a region or significantly influence trends within the transportation industry?
- Did the rail property use an architectural style, materials, engineering solution, or design that served as a model for similar rail properties across the country?
- Was the construction and/or use of the rail property considered an important achievement at the national level?

The bar for national significance is set high. The following criteria are among those used to distinguish National Historic Landmarks:

1. Associated with events that have made a significant contribution to, and are identified with, or that outstandingly represent, the broad national patterns of United States history and from which an understanding and appreciation of those patterns may be gained; or
2. Embody the distinguishing characteristics of an architectural type specimen exceptionally valuable for a study of a period, style or method of construction, or that represent a significant, distinctive and exceptional entity whose components may lack individual distinction; or
3. Are composed of integral parts of the environment not sufficiently significant by reason of historical association or artistic merit to warrant individual recognition but collectively compose an entity of exceptional historical or artistic significance, or outstandingly commemorate or illustrate a way of life or culture.

Examples of Nationally Significant Rail Properties May Include:

Denver & Rio Grande Railroad San Juan Extension, Antonito, Colorado to Chama, New Mexico

This 64-mile railroad route runs along the Colorado and New Mexico border and includes over 200 railroad properties, including (but not limited to) track, bridges, buildings, and maintenance facilities. Construction of the route began in 1871 and continued to 1930.

It was listed in the National Register as a historic district in 1973 and was designated a National Historic Landmark in 2012. The district is nationally significant under National Register Criteria A and C. Constructed through Rocky Mountain terrain, the railroad opened up the entire Central Rocky Mountain region for development at a time when national development was pushing west across the continent. The railroad is the longest and most complete example from the height of railroad transportation in this country (1870-1930). Its use of the narrow gauge, at a time when various gauges were competing to become the national standard, proved that the narrow gauge could be used in mountainous terrain, over long distances, and meet traffic demand.²⁹

Pennsylvania Railroad Depot and Baggage Room, Dennison, Ohio

The depot was constructed in the late nineteenth century as part of the Pennsylvania Railroad's Panhandle Line, running between Columbus, Ohio, and Pittsburgh, Pennsylvania.

It was listed in the National Register in 1976, and was designated a National Historic Landmark in 2011. The building is nationally significant under National Register Criterion A. During World War II, the depot became famous for its canteen, staffed by thousands of volunteers under the direction of the Salvation Army. The canteen was dedicated to serving free refreshments to every troop train traveling along this busy corridor. Between 1942 and 1946, an estimated 1.3 million American troops stopped at the canteen, which gained national attention.³⁰

San Francisco Cable Cars, San Francisco, California

The first line for the cable car system was laid in 1873. Once extending over 112 miles of track in the city, today the cable cars are only in operation on some of the city's steepest streets. The system contains 10 miles of track, a powerhouse and car barn, the turning mechanisms, and the cable cars as contributing historic properties. It was one of the earliest historic properties listed as a National Historic Landmark and in the National Register in 1964 and 1966 respectively.

The system, which is listed as an individual resource under Criterion A, is also nationally significant under Criterion C. The San Francisco Cable Cars system is the only urban example still in operation in the country. The use of underground cable to pull cars uphill was pioneered in San Francisco and soon spread to other major United States cities. Several character-defining features of the line are intact along the extant section of the network.³¹

²⁹ National Register of Historic Places Multiple Property Documentation Form. *Railroads' in Colorado 1858-1948*. National Register #73000462.

³⁰ National Register of Historic Places Inventory – Nomination Form. Pennsylvania Railroad Depot and Baggage Room. National Register #76001536.

³¹ National Register of Historic Places Inventory – Nomination Form. San Francisco Cable Cars. National Register #66000233.

St. Charles Avenue Streetcar Line, New Orleans, Louisiana

The St. Charles Avenue Streetcar is the country's oldest continuously operating streetcar line, having started operation in 1835. It was electrified in 1893. The line extends over 13.2 miles through the city, and still uses 35 arch-bodied Perley Thomas streetcars dating from the 1920s. The line was listed in the National Register in 1973, and was designated a National Historic Landmark in 2014.

The streetcar line is listed under Criterion A, and is also nationally significant under Criterion C. At its peak in the late nineteenth and early twentieth centuries, street railways were used nationwide, carrying more than 16 million passengers every year. This is the only streetcar line dating from that period that is still in operation. The arched-roof Perley Thomas streetcars that are still in use were early examples of double-ended streetcars, which allowed them to run in both directions without turning around.³²

Exceptional Importance

This category includes rail properties that:

- Illustrate the history of the development of the nation's railroads or rail transit systems;
- Are less than 50 years old;
- Meet the National Register eligibility criteria as defined in 36 CFR 60.4;
- Possess a national level of significance (see Section 3.6.1); and
- Exhibit exceptional importance (Criteria Consideration G) (see Section 3.5.3)

The phrase "exceptional importance" may be applied to a rail property's extraordinary quality of design, because it represents the introduction of a new or innovative technology, or because it is one of very few survivors of a particular type of rail property. Standard or common design plans, by their nature, are not exceptional. Consequently, terms like "unique," "precedent setting," or "engineering marvel" should be considered when evaluating a rail property for exceptional significance. Additional guidance is available in the NPS National Register Bulletin No. 22, *Guidelines for Evaluating and Nominating Properties that Have Achieved Significance within the Past Fifty Years*.³³

The first step in evaluating rail properties less than 50 years old is to identify the appropriate area(s) of significance, such as engineering, transportation, social history, or commerce. Then, deliberate and distinct justification for the "exceptional importance" of the resource must be made.

Considerations for Evaluating Exceptional Importance

- Is there enough research available to understand the historic context of the property, despite its younger age? Are there enough resources available to evaluate the impact of the property on recent railroad and rail transit patterns of development or events?

³² National Register of Historic Places Inventory – Nomination Form. The St. Charles Line (Streetcar). National Register #73000873.

³³ NPS. 1998. National Register Bulletin 22. *Guidelines for Evaluating and Nominating Properties that Have Achieved Significance Within the Past Fifty Years*. Available at <https://www.cr.nps.gov/nr/publications/bulletins/nrb22/>

- Is there enough information available on comparable properties, to assess the property's relative value and significance? Does the available information clearly demonstrate that the property was an early or innovative version of a rail property type?

Listed in the National Register or Determined Eligible by the Keeper

This category includes rail properties that:

- Illustrate the history of the development of the nation's railroads or rail transit systems;
- Were listed in the National Register or were determined eligible for the National Register by the Keeper pursuant to 36 CFR Part 63, prior to the issuance of the Program Comment; and
- Retain National Register eligibility, as determined by the USDOT OA

Rail properties in this category have already been listed in the National Register or determined eligible by the Keeper, and retain eligibility as determined by the USDOT OA for the purpose of the Program Comment. NPS maintains the National Register; Project Sponsors may visit the [National Register Database and Research website](#) to search National Register listings. Often, the Keeper makes a determination of eligibility when there is disagreement between a Federal agency and SHPO, THPO, Indian Tribe, or NHO regarding a property's National Register eligibility. Project Sponsors may be able to obtain information on Keeper-determined eligible properties in the study area from the SHPO or NPS.

Considerations for Evaluating Rail Properties

- Not every rail property that is listed on the National Register or was determined eligible by the Keeper will automatically be included on a USDOT OA-approved list of excluded historic rail properties. Project Sponsors should consider whether such properties illustrate the history of the development of the nation's railroads or rail transit systems, retain integrity, and continue to meet National Register eligibility criteria.
- It is possible that properties listed or determined eligible by the Keeper in the past have been altered over time, such that they have lost integrity and are no longer eligible for the National Register for the purpose of the Program Comment.
- Project Sponsors should account for all National Register-listed and Keeper-determined eligible rail properties in their submission to the USDOT, and clearly indicate – with a well-supported justification – which of these properties it believes should and should not be considered excluded historic rail properties.

Examples of rail properties that may be considered excluded historic rail properties include:

Austin and Northwestern Railroad Historic District – Fairland to Llano, Texas

This district consists of 50 structures, buildings, and sites associated with a 29.9-mile branch line in operation for nearly a century, 1892 to 1981. It served an important role in commercial trade in Llano County, as evidenced by the fact that at its terminus in Llano, located north of the existing town center, a new business district formed that included a town common. Businesses often had one entrance facing the square for customers, and a freight entrance at the rear along the tracks. Few changes were made to the line after 1930, aside from routine repair and some bridge replacements. The district includes rail properties located in the rail ROW, such as trestles, depot sites, spurs, and switches, as well as a hotel property built by the Southern Pacific Railroad after it took over the line. The rail ROW and adjacent related properties are currently owned by the Capital Metropolitan Transit Authority, and is not currently in regular use.

The district was listed in the National Register in 1997 and meets Criteria A and C in the areas of Transportation, Engineering, and Architecture. The nomination describes it as “a cohesive district that represents an excellent and relatively unspoiled example of turn of the century bridges, track, trusses and trestles.”³⁴

West Yellowstone Oregon Shortline Terminus Historic District, West Yellowstone, Montana

This terminus was constructed by the Union Pacific Railroad beginning in 1910 at the entrance to Yellowstone National Park, bringing tourists directly to the park from 70 miles away in St. Anthony and spurring the development of the town of West Yellowstone. Originally, a depot and baggage building were constructed, but within a few years the railroad added amenities for tourists such as a dining hall, dormitories, and a picnic pavilion. The setting of this rail terminus, within a wooded landscape, is rather uncommon for this property type and reflects its primary function as a gateway between the railroad and the park for tourists. Most of the resources within the district were designed by Gilbert Stanley Underwood, a consulting architect to the Union Pacific Railroad and Supervising Architect in the Federal Works Agency and General Service Administration. He designed a number of passenger stations as well as accommodations in several national parks. While his earlier depots were influenced by the Beaux Arts style, at West Yellowstone, Underwood combined the Richardsonian Romanesque depot form with rustic details like stone cladding, responding to the surrounding landscape of the site.

The district was listed in the National Register in 1983 as part of a Multiple Resources Area form for West Yellowstone. It is significant under Criteria A and C, in the areas of commerce, transportation, exploration/settlement, and architecture.³⁵

Union Station (West Concord Station), Concord, Massachusetts

This one-story Queen Anne style building was built in 1893-1894 and was part of a combined passenger station, baggage room, and freight house. It was sited at the junction of the Fitchburg Railroad and the Framingham and Lowell Railroad. The village of West Concord developed around the junction, and the station building became the most visually prominent building in the village despite its modest size. It is now surrounded by a park, but the station is still in use as West Concord Station’s waiting area on the Fitchburg commuter line.

Union Station was listed in the National Register in 1989. It meets Criteria A and C and is significant in the areas of transportation and architecture. In the 1980s, the historic integrity of Union Station was diminished by the application of modern siding and interior floor plan alterations. The Massachusetts Bay Transportation Authority, working with the local community, restored the building to its 1890s appearance, reinstating the clapboard siding and repairing the stained glass transoms.³⁶

Pawtucket-Central Falls Railroad Station, Pawtucket and Central Falls, Rhode Island

This railroad station was constructed 1915-1916 by the New York, New Haven and Hartford Railroad. It is located on the municipal boundary, and replaced two separate previous facilities. The station is the product of a lengthy joint effort among Pawtucket, Central Falls, the state, and

³⁴ National Register of Historic Places Registration Form. Austin & Northwestern Railroad Historic District (Fairland to Llano). National Register #97001161.

³⁵ [National Register of Historic Places Inventory – Nomination Form. West Yellowstone Oregon Shortline Terminus Historic District. National Register #83001069.](#)

³⁶ [National Register of Historic Places Registration Form. Union Station. National Register #89000143.](#)

the railroad company. As part of a corridor-wide initiative to eliminate at-grade crossings for safety reasons, the open tracks are depressed below the station, creating a dramatic bridge-like effect. The station utilizes steel framing and a brick exterior with prominent cast stone detailing. Beaux Arts features include the articulation of five distinct parts (comprising a main concourse flanked by lobby blocks and service wings), massive blind arches and window openings framed by pilasters, and cast stone cartouches.

In 1997 the Keeper determined the property eligible for the National Register, under Criteria A and C. The evaluation by the Keeper notes “its historic and architectural significance within the context of the community’s early 20th-century transportation history.” Although the building had been vacant for several years and there was evidence of deterioration, the Keeper noted that the historic massing, configuration, plan, and interior volumes were intact, and there was sufficient integrity to convey the building’s historic significance.³⁷

State or Local Significance

This category includes rail properties that:

- Illustrate the history of the development of the nation’s railroads or rail transit systems;
- Are at least 50 years old;
- Meet the National Register eligibility criteria as defined in 36 CFR 60.4; and
- Demonstrate a state or local level of significance, as determined by the USDOT OA

A state level of significance is met when a rail property represents an important aspect of the railroad or rail transit history of the state as a whole. A local level of significance is met when a rail property represents an important aspect of the railroad or rail transit history of a county, city, or town.

Considerations for Evaluating State or Local Significance

- The level of significance of a property refers to the geographic context within which it is being evaluated and displays importance. What are the geographical limits of the rail property’s historic impact?
- Is the rail property relevant to the historic development pattern of a city, region, or state?
- Is the rail property a significant representative of a property type on the local or state level? Does the rail property represent an influential or characteristic example of an engineering solution, design, or use of materials compared to similar rail properties at the state or local level?

Examples of rail properties of state or local significance may include:

Southern Railroad Bridge (“Old Railroad Bridge”), Florence, Alabama

This Warren through truss bridge was reconstructed in 1893, and is one of the oldest extant railroad and highway dual-purpose bridges in the state. The crossing over the Tennessee River has served an important role in the agricultural and industrial development of the Tennessee Valley by providing a vital link between Alabama’s largest river and the rest of the state. A previous incarnation of the bridge was instrumental in the movement of Confederate troops during the Civil War. The current bridge was built immediately after the previous one collapsed,

³⁷ Information provided by the Rhode Island Historical Preservation and Heritage Commission.

demonstrating the importance of this crossing to the economic reestablishment of the Shoals region during the Reconstruction Period. The establishment of the Tennessee Valley Authority as part of the New Deal led to the construction of a new highway bridge nearby in 1939; however, the program resulted in a high degree of prosperity for the region, and the bridge remained in use for railroad traffic into the 1980s.³⁸

Bangor and Aroostook Railroad, Derby Shops, Milo, Maine

This railyard was the location of the main repair and maintenance shops for the railroad. The yard represents a remarkably intact collection of early twentieth century railroad maintenance facilities. Extant structures in the yard include a roundhouse, turntable, paint shop, locomotive shop, fueling platform, lumber shed, car repair shop, oil/water separator building, office, and coal tower, along with numerous sidings.³⁹

Southern Pacific Shops (Sacramento Locomotive Works), Sacramento, California

The Southern Pacific Shops were the sole facility west of Pennsylvania where full-sized steam locomotives were constructed, and the largest industrial facility on the west coast during the nineteenth century. The property served as the primary employer for the city of Sacramento, employing approximately one-third of the city. The shops supported the construction of the Central Pacific Railroad's transcontinental route over the Sierra Nevada range, and after completion of the railroad, the shops continued as Southern Pacific's center for construction, maintenance, technological development and vertical integration of machines and devices associated with the Central Pacific (later the Southern Pacific) Railroad until the 1980s.⁴⁰

Seven Mile River Railroad Bridge, Attleboro, Massachusetts

This is the largest brick arch bridge on the Boston and Providence Railroad line. It is one of only three bridges of this construction type on the line. Constructed c. 1880, it consists of nine courses of red brick, with stone spandrels above the vault. The bridge carries a commuter rail line, as well as Amtrak's Northeast Corridor.⁴¹

LaSalle Street Cable Car Powerhouse, Chicago, Illinois

This local Chicago Landmark is a rare surviving building associated with Chicago's cable car system, which at its peak in the 1890s was one of the largest in the country. The powerhouse provided a critical mass transit link between the Loop and the city's North Side by powering cable cars through the LaSalle Street tunnel under the Chicago River. Three companies operated thousands of cable cars out of the facility, with lines stretching over 82 miles.⁴²

³⁸ [Information provided by the Alabama Historical Commission. See also Historic American Engineering Record. Tennessee River Railroad Bridge.](#)

³⁹ Maine Historic Preservation Commission, Survey ID M15440, Derby Shops. Available through the office's [Cultural and Architectural Resource Management Archive \(CARMA\)](#).

⁴⁰ [Information provided by the California Office of Historic Preservation. See also Historic American Engineering Record. Southern Pacific Company, Sacramento Shops.](#)

⁴¹ [Historic Structure Inventory Form, Massachusetts Bay Transit Authority Historical Property Survey, Seven Mile River Railroad Bridge.](#)

⁴² [City of Chicago, Chicago Landmarks, LaSalle Street Cable Car Powerhouse.](#)

4 Project Sponsor Submission

Once a Project Sponsor has completed the identification and evaluation process as described in Section 3, it will submit its proposal to designate excluded historic rail properties to the appropriate USDOT OA for consideration. In addition to the proposed excluded historic rail properties, the submission should provide a summary of the Project Sponsor's methodology for researching, identifying and evaluating rail properties, and documentation of the Project Sponsor's outreach efforts, including evidence of coordination with SHPOs, THPOs, Indian Tribes, and/or NHOs.

Project Sponsors should submit the following information with their proposed excluded historic rail properties to the USDOT OA:

Description of the study area

- Name of the rail corridor, railroad, and/or transit system/line
- Municipality(ies), county(ies), and state(s)
- Specific location, including the portion of the line, mile posts, etc., as appropriate
- ROW ownership and rail operator(s)
- Graphics depicting the study area, such as maps and aerial photographs

Scope of evaluated properties and evaluation methodology

- Specify whether all rail properties in the study area were evaluated or only a certain rail property type(s)
- Summarize how rail properties in the study area were identified and how potential historic significance was evaluated
- Map and list of all rail properties evaluated, including those the Project Sponsor does not believe qualify as excluded historic rail properties

Detailed list of resources consulted and research methodology

- List which resources were consulted during research and evaluation for the following categories. Include dates and authors of reports, studies, evaluations, and communications when applicable.
 - Previous historic property evaluations
 - Information on railroad and/or rail transit-related history
 - Knowledgeable persons
 - Historic maps, photographs, aerial views, and drawings
- Provide a summary of the information and/or comments obtained from, or provided by, these resources

Survey information

If a physical survey was conducted, include:

- Name, professional affiliation (agency or consulting firm), and qualifications of SOI-qualified professional who conducted or oversaw the survey work
- Survey methodology
- Survey results (all properties evaluated, clearly indicating which are being proposed as excluded historic rail properties and which are not)

Evaluated rail properties and proposed excluded historic rail properties

In addition to the proposed excluded historic rail properties, Project Sponsors should include the information below for *each* evaluated rail property, including those that the Project Sponsor does not propose for designation. To record evaluated properties, Project Sponsors are encouraged to complete inventory forms and/or follow guidelines developed by the relevant SHPO, when such forms or guidelines exist.

- Rail property type
- Specific location (municipality, county, state; UTM or latitude/longitude coordinates; milepost, if appropriate)
- Date of construction (or approximation, if exact date is unknown)
- Date(s) of major renovations or alterations (if known)
- Name of architect, builder, and/or engineer (if known)
- Architectural description, including style (if appropriate) and materials
- Construction method or engineering design, particularly if it is uncommon, region-specific, and/or demonstrates a design that overcame a specific engineering challenge
- Assessment of integrity (see Section 3.5.4 for additional information on assessing integrity)
- For proposed excluded historic rail properties, a statement of historic significance indicating how the property illustrates the history of the development of the nation's railroad or rail transit systems, including an evaluation of its level of significance (national, state, or local) as well as applicable National Register criteria (see Section 3.5.3).
- For properties the Project Sponsor believes should not be considered excluded historic rail properties, a brief rationale for why the property does meet the definition and criteria included in the Program Comment and this Guidance.
- A list of all National Register-listed rail properties in the study area. This information can be readily obtained from the NPS website⁴³ or from SHPOs.
- For rail properties listed in the National Register, or determined eligible for listing by the Keeper pursuant to 36 CFR Part 63, include an assessment of whether the property illustrates the history of the development of the nation's railroads or rail transit systems and whether the property retains integrity and continues to meet National Register eligibility criteria. This assessment may be appropriate given that several years may have passed since a property was

⁴³ Project Sponsors may visit the [National Register Database and Research website](#) to search National Register listings.

listed on the National Register or determined eligible by the Keeper. Through the passage of time, such properties may have lost integrity due to alteration, lack of maintenance, etc. so that they no longer are eligible for the National Register. Alternatively, an old National Register nomination may not include sufficient justification for how/why a property is significant in the history of the development of the nation's railroads or rail transit systems, or new information may have become available regarding the historic significance of a National Register-listed or Keeper-determined eligible rail property.

- Photographs in color and of good quality that clearly show the rail properties, including any original distinctive or character-defining elements, repairs, modifications, deterioration, etc. Project Sponsors should follow any existing photography guidelines developed by the relevant SHPO, or NPS guidelines or policies⁴⁴ if no state-specific guidelines exist.
- If appropriate, indicate if there is information about any of the rail properties that should be protected from public disclosure.

Attachment A provides a checklist that Project Sponsors can use when developing a proposal to designate excluded historic rail properties to ensure they provide adequate information to the USDOT OA.

⁴⁴ See the NPS [National Register Bulletin: How to Improve the Quality of Photographs for National Register Nominations](#), and the [NPS Photograph Policy Factsheet](#).

5 USDOT OA Review and Approval

Upon receipt of a Project Sponsor's proposal to designate excluded historic rail properties, the USDOT OA will review the submission to determine whether the Project Sponsor's efforts to identify and evaluate potential excluded historic rail properties are consistent with this Guidance. The USDOT OA may use readily available tools to supplement verification. (Refer to Section 4 and Attachment A for information on what constitutes an adequately supported submission.)

If the USDOT OA determines a Project Sponsor's proposal is not adequately supported, it will provide written feedback to the Project Sponsor regarding what is needed to improve the submission.

The USDOT OA will notify and request input from appropriate SHPOs, THPOs, Indian tribes and/or NHOs when reviewing a Project Sponsor's proposal, and may seek clarification or input from the Project Sponsor or other stakeholders, as appropriate.

Once the USDOT OA has determined that the Project Sponsor's proposal is adequately supported, it will notify the Project Sponsor and make the proposed excluded historic rail properties available for public review and comment and provide a notice of availability through publication of a Federal Register Notice (FRN).

Concurrent with the publication of the proposed excluded historic rail properties for public review and comment, the USDOT OA will:

- Notify transportation and preservation stakeholders by email and/or other appropriate means;
- Request that the ACHP notify its stakeholders by email and/or other appropriate means; and
- Update its website to announce the public review and comment period. The website will include a link to the FRN, the proposed excluded historic rail properties, indicate the dates of the public comment period, and provide instructions for submitting written comments or questions to the USDOT OA.

The Project Sponsor is encouraged to update its website, when feasible, with information about the availability of the proposal for public review and comment.

Historic preservation and transportation stakeholders, other interested parties, and the public will have no more than 30 days to comment on the proposed excluded historic rail properties.

No later than the start date of the public review and comment period, the USDOT OA will provide the Project Sponsor's full submission, or detailed summary thereof, to the appropriate SHPOs, THPOs, Indian tribes and/or NHOs, including 1) the Project Sponsor's proposed excluded historic rail properties, and 2) rail properties identified and evaluated by the Project Sponsor but not proposed for designation as excluded historic rail properties, including any properties listed on the National Register or Keeper-determined eligible rail properties that were evaluated by the Project Sponsor and assessed as having lost integrity or otherwise no longer meeting National Register eligibility criteria. The USDOT OA will not

Adequacy Check

- Is the submission adequately supported? Does it have all the elements listed in Section 4 and Attachment A?
- Did the Project Sponsor make a reasonable effort to identify potential excluded historic rail properties (following the guidance in Section 3)?
- Did the Project Sponsor notify and request input from the appropriate SHPOs, THPOs, Indian tribes, and /or NHOs?

release information about rail properties that the Project Sponsor has requested be protected from public disclosure without first consulting with the Project Sponsor, and the USDOT OA will protect that information from release in accordance with applicable law.

Once the public review and comment period has closed, the USDOT OA, in coordination with the Project Sponsor, will modify the proposed excluded historic rail properties, as necessary and appropriate, based on stakeholder and public comments. The Project Sponsor should assist the USDOT OA with compiling the comments received during the public review and comment period and provide any additional supporting documentation necessary to assist the USDOT OA in making its decision. The USDOT OA may request input from SHPOs, THPOs, Indian tribes, NHOs, the ACHP, the Keeper, and/or other knowledgeable parties as appropriate when addressing comments received during the public review and comment period.

As required by the Program Comment, the USDOT OA will designate excluded historic rail properties within 12 months of receipt of an adequately supported proposal from a Project Sponsor. Where minimal or no substantive comments are received during the public review and comment period, the USDOT OA will endeavor to designate excluded historic rail properties in less time. The USDOT OA-designated excluded historic rail properties will be posted to the USDOT website. The USDOT OA will also notify transportation and preservation stakeholders by email and/or other appropriate means when it designates excluded historic rail properties. USDOT will maintain and update the list of excluded historic rail properties on its website anytime the property-based approach is completed for a new study area.

6 Addressing Stakeholder Comments

During the public review and comment period, the USDOT OA may receive input regarding a Project Sponsor's proposal from an official with geographic jurisdiction or ancestral interest over a rail property, such as a SHPO, THPO, Indian tribe, or NHO. Such parties may provide detailed information that substantiates reconsideration of the Project Sponsor's proposal regarding the inclusion or exclusion of a specific rail property(ies) on the list of excluded historic rail properties, including reconsideration of a property's National Register eligibility. In response to such comments the USDOT OA may do one of the following:

1. Temporarily remove the rail property(ies) subject to dispute from the property-based approach. This means that for future undertakings, Federal agencies would follow the standard Section 106 process or other applicable Section 106 program alternative for consideration of effects to that rail property(ies). The USDOT OA may proceed with designating those rail properties within the study area that are not the subject of dispute, and include them on the USDOT list of excluded historic rail properties. The USDOT OA may continue to work with the relevant parties and may decide to add the disputed rail property to the list in the future.
2. Determine, based on additional information provided by relevant officials and professional judgement, that the rail property(ies) subject to dispute warrants designation as an excluded historic rail property and include the property(ies) on the USDOT list.
3. Determine, based on additional information provided by relevant officials and professional judgement, that the rail property(ies) subject to dispute does not warrant designation as an excluded historic rail property.
4. If the dispute concerns the National Register eligibility or continued listing of a property, request a determination of eligibility from the Keeper.

If during the public review and comment period the USDOT OA receives detailed information from a knowledgeable party or member of the public that substantiates reconsideration of a Project Sponsor's proposal, the USDOT OA will consider that input and determine an appropriate course of action before designating excluded historic rail properties. This may include the USDOT OA seeking input from SHPOs, THPOs, NHOs, or Indian Tribes.

If during the public review and comment period an official with geographic jurisdiction over a rail property, such as a SHPO, THPO, Indian tribe, or NHO, has concerns regarding a USDOT OA and/or Project Sponsor's adherence to the process established in this Guidance, that party should notify the USDOT OA and/or the ACHP. The ACHP may provide comments or a recommendation to the USDOT OA, which the USDOT OA will take into consideration before designating excluded historic rail properties.

7 Use of USDOT List of Excluded Historic Rail Properties in Future Section 106 Undertakings

The USDOT list of excluded historic rail properties may be used by any Federal agency - including an agency that is not part of USDOT - that has Section 106 responsibility for an undertaking or a program of undertakings affecting rail properties in rail ROW. The use of the USDOT list of excluded historic rail properties in future Section 106 undertakings will depend on the scope of the property-based approach completed for the study area in which a future undertaking is located, i.e., whether the effort included an evaluation of all rail properties or just a certain type(s) of rail property (see Figure 2).

- If the Project Sponsor evaluated all rail properties within the study area, once the USDOT OA designates the excluded rail properties within that study area, effects to all evaluated rail properties that are not included on the USDOT list are exempt from Section 106 review regardless of the nature of the undertaking, the types of effects, or the Federal agency responsible for the undertaking. For example, this means that any Federal agency could approve a future Project Sponsor's proposal to demolish and replace a railroad bridge that is within the study area and was evaluated as part of the property-based approach and not designated an excluded historic rail property by FRA without having to consider effects to that bridge under Section 106. Another example would be if a transit agency is a recipient of Federal financial assistance from FTA and has completed the property-based approach, it could replace a tunnel or demolish a commuter rail station in its system without these properties being subject to Section 106 review if they are located within the study area and were evaluated and not designated as excluded historic rail properties by FTA.
- If the Project Sponsor only evaluated a specific property type(s) within the study area, consideration of effects to other rail property types that were not evaluated remain subject to Section 106 review. For example, if only passenger stations were evaluated as part of the property-based approach, effects of a future Federally-funded or permitted railroad bridge demolition project within the study area would still be subject to Section 106 review.

Use of the activities-based approach and the property-based approach together

The Program Comment's *Appendix A: Exempted Activities List* may still be applied to excluded historic rail properties. For example, a passenger station may be included on the USDOT list of excluded historic rail properties, but state-of-good repair work that is necessary to keep the station operating safely and efficiently and that is performed in accordance with SOI-standards when required would be exempt from Section 106 review, because this type of work is included in the Program Comment's *Appendix A: Exempted Activities List*.

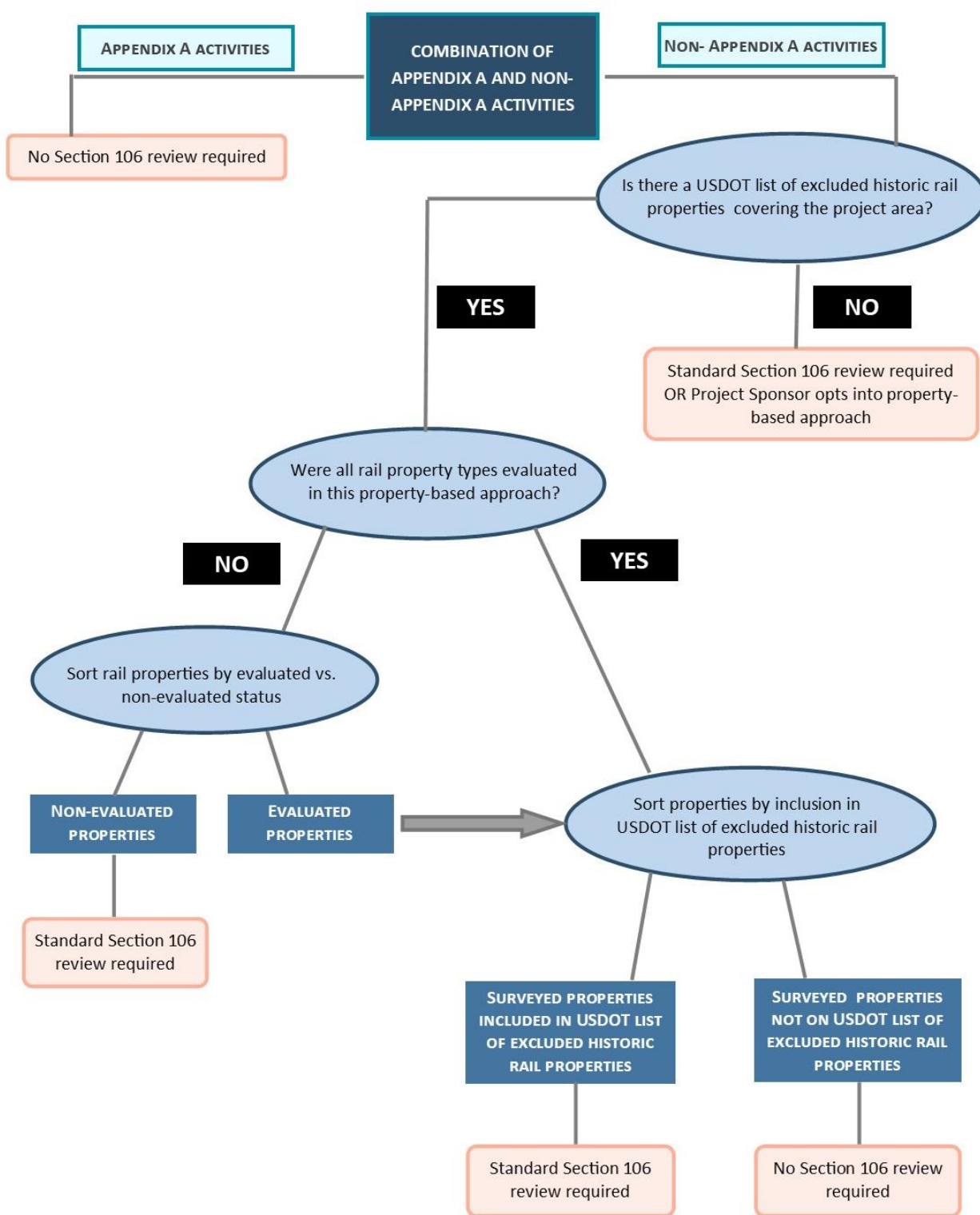
Also, some undertakings may have the potential to affect more than one rail property. In these cases, it is acceptable for a Federal agency to apply any combination of the activities-based approach and the property-based approach that would result in streamlining the agency's review and approval of the undertaking. Effects to rail properties that are not covered by either approach would remain subject to Section 106 review. Furthermore, it is appropriate to use the Program Comment (the activities-based and/or the property-based approach) whenever applicable – even if only to a portion of an undertaking – and to conduct a standard Section 106 review or use another program alternative for portions of the same undertaking that are not covered by the Program Comment.

The Program Comment does not supersede or modify any existing program alternatives, including existing executed programmatic agreements. In cases when the Program Comment and one or more other program alternatives apply to a proposed undertaking, the Federal agency has discretion to determine which program alternative to follow or to follow multiple program alternatives, if appropriate. At the discretion of the Federal agency, the property-based approach may be used for undertakings for which the Section 106 process has already been initiated.

Information Sharing

The USDOT OAs will provide copies of Project Sponsors' full submission (Section 4) to other Federal agencies upon request. The USDOT OAs will also provide this information to other Project Sponsors, upon request, if there is overlap between study areas that are subject to the property-based approach. The purpose of this information-sharing is to try to avoid duplicate evaluations of the same rail properties, either as part of the standard Section 106 review process or as part of pursuing a particular property-based effort pursuant to the Program Comment and this Guidance.

FIGURE 2: USE OF USDOT OA-APPROVED LIST OF EXCLUDED HISTORIC RAIL PROPERTIES IN FUTURE SECTION 106 UNDERTAKINGS



Attachment A: Checklist for Submitting a Proposal to Designate Excluded Historic Rail Properties

Section 4 of this Guidance includes information that a Project Sponsor should provide to the USDOT OA as part of its proposal to designate excluded historic rail properties. This attachment is a checklist that a Project Sponsor may use to ensure that its submission is adequate.

Description of the study area

- ☐ Name of the rail corridor, railroad, and/or transit system/line
- ☐ Municipality(ies), county(ies), and state(s)
- ☐ Specific location, including the portion of the line, mile posts, etc., as appropriate
- ☐ ROW ownership and rail operator(s)
- ☐ Graphics depicting the study area, such as maps and aerial photographs

Scope of evaluated properties and evaluation methodology

- ☐ Specify whether all rail properties in the study area were evaluated or only a certain rail property type(s) (Section 3.1)
- ☐ Summarize how rail properties in the study area were identified and how potential historic significance was evaluated
- ☐ Map and list of all evaluated rail properties, including those the Project Sponsor does not believe qualify as excluded historic rail properties

Detailed list of resources consulted and research methodology

- ☐ List which resources were consulted during research and evaluation for the following categories. Include dates and authors of reports, studies evaluations, and communications when applicable (Section 3.2.1).
 - ☐ Previous historic property evaluations
 - ☐ Information on railroad and/or rail transit-related history
 - ☐ Knowledgeable persons, including SHPOs, THPOs, Indian Tribes and/or NHOs
 - ☐ Historic maps, photographs, aerial views, and drawings
- ☐ Provide a summary of the information and/or comments obtained from, or provided by, these resources

Survey information (if a physical survey was conducted)

- ☐ Name, professional affiliation (agency or consulting firm), and qualifications of SOI-qualified professional who conducted or oversaw the survey work (Section 3.2.2)
- ☐ Survey methodology

- ☐ Survey results for all evaluated resources, clearly indicating which are being proposed as excluded historic rail properties and which are not

Evaluated rail properties and proposed excluded historic rail properties

In addition to the proposed excluded historic rail properties, Project Sponsors should include the following information for *each* evaluated rail property, including those that the Project Sponsor does not propose for inclusion on the list. To record evaluated properties, Project Sponsors are encouraged to complete inventory forms and/or follow guidelines developed by the relevant SHPO, when such forms or guidelines exist.

- ☐ Rail property type
- ☐ Specific location (municipality, county, state; UTM or latitude/longitude coordinates; milepost, if appropriate)
- ☐ Date of construction (or approximation, if exact date is unknown)
- ☐ Date(s) of major renovations or alterations (if known)
- ☐ Name of architect, builder, and/or engineer (if known)
- ☐ Architectural description, including style (if appropriate) and materials
- ☐ Construction method or engineering design, particularly if it is uncommon, region-specific, and/or demonstrates a design that overcame a specific engineering challenge
- ☐ Assessment of integrity (Section 3.5.4)
- ☐ For proposed excluded historic rail properties a statement of historic significance that includes:
 - How the property illustrates the history of the development of the nation's railroad or rail transit systems (Sections 3.5.1 and 3.5.2)
 - Evaluation of its level of significance (national, state, or local)
 - Applicable National Register criteria (Section 3.5.3)
- ☐ For properties the Project Sponsor believes should not be considered excluded historic rail properties, a brief rationale for why the property does meet the definition and criteria included in the Program Comment and this Guidance
- ☐ List of all National Register-listed rail properties in the study area
- ☐ For rail properties listed in the National Register, or determined eligible for listing by the Keeper pursuant to 36 CFR Part 63:
 - Assessment of whether the property illustrates the history of the development of the nation's railroads or rail transit systems
 - Assessment of whether the property retains integrity and continues to meet National Register eligibility criteria
- ☐ Photographs in color and of good quality that clearly show the rail properties
- ☐ If appropriate, indicate if there is information about any of the rail properties that should be protected from public disclosure