

August 25, 2024<sup>8</sup>—Board's decision becomes effective.

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## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

[Docket No. FHWA-2024-0014]

#### Notice of Intent To Prepare an Environmental Impact Statement for the Cape Cod Bridges Program in Barnstable County, Massachusetts

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

**ACTION:** Notice of intent to prepare an environmental impact statement.

**SUMMARY:** The FHWA in coordination with the Massachusetts Department of Transportation Highway Division (MassDOT) is issuing this Notice of Intent (NOI) to solicit comments and advise the public, agencies, and stakeholders that an Environmental Impact Statement (EIS) will be prepared in accordance with the National Environmental Policy Act (NEPA) to study the potential environmental and related social and economic effects of proposed transportation improvements through the Cape Cod Bridges Program in the town of Bourne, Barnstable County, Massachusetts. The Cape Cod Bridges Program proposes critical transportation infrastructure improvements including replacement of the Bourne and Sagamore highway bridges spanning Cape Cod Canal; reconfiguration of the highway approach networks north and south of Cape Cod Canal to align with the replacement highway bridges; and provision of separated pedestrian and bicycle accommodations along the replacement bridges with connections to the local roadway network. This NOI contains a summary of the information required in the Council on Environmental Quality (CEQ) NEPA regulations. This NOI should be reviewed together with the Supplementary NOI Document, which includes important details about the Cape Cod Bridges Program and complements the information in this NOI. Persons and agencies who may be interested in or affected by the Cape Cod Bridges Program are encouraged to comment on the information in this NOI and the Supplementary NOI Document. All comments received in response to

this NOI will be considered and any information presented herein may be revised in consideration of the comments.

**DATES:** Publication of this NOI initiates a 30-day public comment period. Comments on the NOI or the Supplementary NOI Document are to be received by FHWA through the methods below by April 1, 2024.

**ADDRESSES:** This NOI and the Supplementary NOI Document are also available in the docket referenced above at [www.regulations.gov](http://www.regulations.gov) and on the Program website located at <http://www.mass.gov/cape-bridges>. The Supplementary NOI Document will be mailed upon request. Interested parties are invited to submit comments by any of the following methods:

*Website:* For access to the documents, go to the Federal eRulemaking Portal located at [www.regulations.gov](http://www.regulations.gov) or the Program website located at <https://www.mass.gov/cape-bridges>. Follow the online instructions for submitting comments.

*Mailing address or for hand delivery or courier:* Cassandra Ostrander, Program Development Team Leader, Federal Highway Administration, 220 Binney Street, 9th Floor, Cambridge, Massachusetts 02142. Office Hours: Monday through Friday (except Federal holidays) from 8 a.m. to 4:30 p.m.

All submissions should include the agency name and the docket number that appears in the heading of this Notice. All comments received will be posted without change to [www.regulations.gov](http://www.regulations.gov), including any personal information provided. A summary of the comments will be included in the Draft EIS (DEIS).

**FOR FURTHER INFORMATION CONTACT:**

*FHWA:* Cassandra Ostrander, Program Development Team Leader, Federal Highway Administration, 220 Binney Street, 9th Floor, Cambridge, Massachusetts 02142; email: [cassandra.ostrander@dot.gov](mailto:cassandra.ostrander@dot.gov); (617) 494-3113.

*MassDOT:* Bryan Cordeiro, Project Manager, Massachusetts Department of Transportation, 10 Park Plaza, Suite 6340, Boston, Massachusetts 02116; email: [bryan.j.cordeiro@dot.state.ma.us](mailto:bryan.j.cordeiro@dot.state.ma.us); (774) 993-9632.

**SUPPLEMENTARY INFORMATION:** The FHWA and MassDOT are committed to public involvement for this study. The FHWA, as the Lead Federal Agency, and MassDOT, as sponsor and joint lead agency, are preparing an EIS for the Cape Cod Bridges Program to identify, analyze, and disclose the potential environmental and related social and economic effects of the Build and No Build alternatives. The EIS will be

prepared in accordance with the requirements of the National Environmental Policy Act (NEPA) of 1969, as amended (42 United States Code [U.S.C.] 4321, *et seq.*); 23 U.S.C. 139; Council on Environmental Quality (CEQ) regulations implementing NEPA (40 Code of Federal Regulations [CFR] 1500-1508); FHWA regulations implementing NEPA (23 CFR 771.101-771.139); and applicable Federal, State, and local laws and regulations.

The Supplementary NOI Document provides additional information on the Purpose and Need for the proposed action, alternatives considered, and expected impacts on the human, natural and built environments. The FHWA requests comments and suggestions on the Purpose and Need, study alternatives and impacts, and the identification of any relevant information, studies or analyses of any kind concerning impacts to the quality of the human and natural environment. All public comments received in response to this NOI will be considered, and changes may be made to the study as appropriate.

#### Program Background

The Bourne and Sagamore Bridges, which were simultaneously built between 1933 and 1935, are two high level, fixed span highway bridges spanning Cape Cod Canal in the town of Bourne, Barnstable County, Massachusetts. The New England District of the U.S. Army Corps of Engineers (USACE) owns, operates, and maintains the Bourne and Sagamore Bridges (collectively referred to as the Cape Cod Canal highway bridges) as part of the Cape Cod Canal Federal Navigation Project. The Cape Cod Canal highway bridges provide the only roadway access for the more than 35 million vehicles that cross Cape Cod Canal each year and serve as the gateway to Cape Cod for more than 250,000 year-round residents of the Cape and Islands (Barnstable, Dukes, and Nantucket counties), and millions of annual visitors to the region during the height of the summer tourist season between Memorial Day and Labor Day. As the only roadway access points between mainland Massachusetts and Cape Cod, and by extension to the islands of Martha's Vineyard and Nantucket via Cape Cod based ferry services, the Cape Cod Canal highway bridges serve as essential routes for general transportation, commerce, tourism, and evacuations in case of emergency. The Cape Cod Canal highway bridges, particularly the Bourne Bridge, also provide the only vehicular access points from the

<sup>8</sup> The final decision will become effective 30 days after it is served.

mainland to major national defense facilities at Joint Base Cape Cod in the upper western portion of Cape Cod.

In accordance with 23 U.S.C. 139(f)(4)(E)(ii) and 40 CFR 1501.12, the Cape Cod Bridges Program builds upon and references prior, multi-year foundational studies, including:

(1) The USACE Cape Cod Canal Bridges Major Rehabilitation Evaluation (MRE), which was completed to evaluate the current condition of the bridges and determine whether standard operation and maintenance, major rehabilitation, or replacement of either or both bridges would provide the most reliable, fiscally responsible solution for providing long-term vehicular access across Cape Cod Canal (<https://www.nae.usace.army.mil/Missions/Projects-Topics/Cape-Cod-Canal-Bridges-Major-Rehabilitation-Study>); and

(2) The MassDOT Office of Transportation Planning (OTP) Cape Cod Canal Transportation Study, which was completed to identify and evaluate existing and future multimodal transportation deficiencies and needs of the existing roadway network around the Cape Cod Canal area (<https://www.mass.gov/lists/cape-cod-canal-study-documents>).

On December 19, 2022, MassDOT requested that FHWA serve as lead Federal Agency for the Cape Cod Bridges Program. On January 20, 2023, FHWA responded in agreement to MassDOT's request. On August 11, 2023, FHWA determined the Cape Cod Bridges Program would require the preparation of an EIS to ensure full and fair discussion of significant environmental impacts are disclosed to decision makers and the public. This NOI initiates the FHWA NEPA review process.

The following information provided in the NOI is supplemented with more detail in the Supplementary NOI Document.

*(a) The Purpose and Need for the Proposed Action*

The purpose of the Cape Cod Bridges Program is to improve cross-canal mobility and accessibility between Cape Cod and mainland Massachusetts for all road users and to address the increasing maintenance needs and functional obsolescence of the aging Cape Cod Canal highway bridges.

The needs for the Cape Cod Bridges Program are as follows: address the deteriorating structural condition and escalating maintenance demands of the Cape Cod Canal highway bridges; address the substandard design elements of the Cape Cod Canal

highway bridges, the immediate mainline approaches, and their adjacent interchanges and intersections; improve vehicular traffic operations; and improve accommodations for pedestrians and bicyclists.

The Purpose and Need statement and supporting documentation, including data and public input summary, is included in the Supplementary NOI Document and will be available in the DEIS. The Purpose and Need may be revised based on consideration of public and agency comments received during the comment period for this NOI and during the Scoping process for the DEIS.

*(b) Preliminary Description of the Proposed Action and Alternatives the Environmental Impact Statement Will Consider*

Pursuant to 23 U.S.C. 139(f)(4)(E)(ii) and 40 CFR 1501.2, the FHWA and MassDOT's Cape Cod Bridges Program EIS builds upon and references the analyses and findings of MassDOT's Cape Cod Canal Transportation Study and the USACE's Cape Cod Canal Highway Bridges MRE/EA. The Cape Cod Bridges Program EIS incorporates the USACE's proposed action to replace the Bourne and Sagamore Bridges with new adjacent highway bridges, with each structure providing four through-travel lanes and two auxiliary acceleration/deceleration lanes, updated to comply with current Federal and state highway design standards.

*Preliminary Description of the Proposed Action.* The proposed action will replace the Bourne and Sagamore highway bridges with parallel, twin tied-arch bridge structures supported on Delta frames with an approximate 700-foot mainline span length. At both the Bourne and Sagamore crossings, the replacement bridge mainline alignment location will be fully offline (outside of the existing footprint) and inboard of the existing highway bridges, on the side of the canal between the existing Bourne Bridge and Sagamore Bridge. Additionally, at both canal crossings, the proposed action will reconfigure the highway interchange approach networks north and south of Cape Cod Canal to align with the replacement highway bridges. The FHWA and MassDOT have evaluated a range of highway interchange approach options at both the Sagamore and Bourne crossings; and it is FHWA's and MassDOT's intent to present an evaluation of the interchange options and identify a Preferred Option for the highway interchange approaches at both crossings in the DEIS. Refer to the Supplementary NOI Document for details of the analysis of design parameters that FHWA and MassDOT

conducted to determine the recommended design elements of the replacement highway bridges.

*Range of Alternatives the EIS will Consider.* The range of alternatives includes one Build Alternative retained for detailed study, described above as the proposed action, and the No Build Alternative. The No Build Alternative, which assumes no improvements other than those implemented as part of routine maintenance and to keep the bridge safe and open to traffic in the near term, will be carried forward for study in the DEIS as a baseline for comparison to the Build Alternative.

The alternatives may be revised based on the consideration of public and agency comments. The range of reasonable alternatives to be carried forward and documented in the DEIS will be finalized after consideration of comments received during the comment period on this NOI and after conclusion of the Scoping outreach process. Refer to the Supplementary NOI Document for details of the analysis of design parameters that FHWA and MassDOT conducted to identify the recommended Alternatives Retained for Detailed Study in the DEIS.

*(c) Summary of Expected Impacts*

The FHWA and MassDOT have initiated data collection and agency coordination to identify the types of environmental, cultural, and socio-economic resources present in the Program Study Areas and those likely to be impacted. The following key resources and issues have been identified for evaluation in the EIS and supporting technical studies:

- *Historic Properties:* There are numerous historical and cultural resources within and adjacent to the Program Study Areas, including but not limited to the Bourne and Sagamore Bridges and the Cape Cod Canal Historic District, which are eligible for listing in the National Register of Historic Places. The EIS will provide a discussion of historical and cultural resources within and adjacent to the Program Study Areas.

- *Section 4(f) Properties:* The Build Alternative may affect publicly owned parks and recreational areas, and public and private historical sites listed or eligible for listing on the National Register of Historic Places that are subject to protection under Section 4(f) of the Department of Transportation Act of 1966 [Section 4(f)]. The Section 4(f) protected public parks and recreational areas within the Program Study Areas include local, State, and Federal resources. Historic sites within and near the Program Study Areas include the

Bourne and Sagamore Bridges, the Cape Cod Canal Historic District, and other public and private historic properties. Potential impacts to Section 4(f) properties will be evaluated, avoided, or minimized to the greatest extent possible as the Program design elements are refined during development of the EIS and the Section 4(f) evaluation.

- *Relocations*: The Build Alternative may require full and partial right-of-way acquisitions from residential and commercial properties within the Program Study Areas. Potential impacts to surrounding residential and commercial properties will be evaluated, avoided, or minimized to the greatest extent possible as the Program design elements are refined during development of the EIS. The FHWA and MassDOT will ensure that any necessary right-of-way is acquired in compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended.

The EIS will also evaluate potential impacts to the following: land use; social and community resources; local and regional economies; environmental justice; air quality and climate; transportation systems; threatened, endangered, and special status species; noise sensitive areas; wetlands and floodplains; coastal resources and navigation; stormwater and water quality; hazardous waste and contaminated materials; public utilities and services; and visual resources. The level of review of the identified resources for the EIS will be commensurate with the anticipated effects to each resource from the proposed action and will be governed by the statutory and regulatory requirements applicable to those resources.

The analyses and evaluations conducted for the EIS will identify the potential for construction-related (short-term) and operational (long-term) effects (direct, indirect, and cumulative); avoidance measures; whether anticipated effects would be adverse; and mitigation measures for any adverse effects. Additional information on the expected impacts is provided in the Supplementary NOI Document available for review in the docket established for this Program and on the Program website as noted in the **ADDRESSES** section. Comments on the expected impacts to be analyzed in the DEIS are welcomed during the NOI comment period. The identification of impacts for analysis in the DEIS may be revised due to consideration of public comments.

*(d) Anticipated Permits and Other Authorizations*

Anticipated Federal permits and authorizations for the Cape Cod Bridges Program include:

- USACE permits under Section 404 of the Clean Water Act (33 U.S.C. 1344) and Section 10 of the Rivers and Harbors Act (33 U.S.C. 403);
- U.S. Coast Guard (USCG) Bridge Permits under Section 9 of the Rivers and Harbors Act of 1899, as amended (33 U.S.C. 403);
- National Marine Fisheries Service (NMFS) consultation under Section 7 of the Endangered Species Act (16 U.S.C. 1536) and the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371);
- U.S. Fish and Wildlife Service (USFWS) consultation under Section 7 of the Endangered Species Act (16 U.S.C. 1536), the Migratory Bird Treaty Act of 1918 (16 U.S.C. 703), the Bald and Golden Eagle Protection Act (16 U.S.C. 668), and the Fish and Wildlife Coordination Act (16 U.S.C. 661);
- NMFS Essential Fish Habitat Consultation/Assessment under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801–1891d);
- Evaluation under Section 4(f) of the U.S. Department of Transportation Act (49 U.S.C. 303(c));
- Evaluation under Section 106 of the National Historic Preservation Act (54 U.S.C. 306108);
- USACE Section 408 approval under Section 14 of the Rivers and Harbors Act of 1899 (33 U.S.C. 408);
- United States Environmental Protection Agency (USEPA) National Pollutant Discharge Elimination System (NPDES) Construction General Permit;
- Federal Aviation Administration (FAA) review under 29 U.S.C. 44718;
- Federal Archaeologist Permit under 43 CFR 7.

Anticipated state and local permits and approvals for the Cape Cod Bridges Program include:

- Massachusetts Executive Office of Energy and Environmental Affairs (MA EEA) Secretary Certification under the Massachusetts Environmental Policy Act (MEPA) Regulations (301 CMR 11.00);
- Bourne Conservation Commission Order of Conditions (OOC) under the Massachusetts Wetlands Protection Act (310 CMR 10.00);
- Massachusetts Department of Environmental Protection (MassDEP) 401 Water Quality Certification (WQC) under the 401 Water Quality Certification Regulations (314 CMR 9.00);

- MassDEP Chapter 91 Licenses under the Massachusetts Public Waterfront Act (310 CMR 9.00);
- Massachusetts Office of Coastal Zone Management (MA CZM) Federal Consistency Review under the Massachusetts Coastal Zone Management Act (301 CMR 20.00);
- Massachusetts Historical Commission (MHC) State Archaeologist Permit (950 CMR 70.00);
- Potential Massachusetts Division of Fisheries and Wildlife (MA DFW) Conservation and Management Permit (CMP) under the Massachusetts Endangered Species Act (MESA) Regulations (321 CMR 10.00).

*(e) Schedule for the Decision-Making Process*

The schedule for the Cape Cod Bridges Program will be established as part of the requirements of the environmental review process under 23 U.S.C. 139 and will comply with 40 CFR 1501.10(a) and (b)(2) and 23 U.S.C. 23, which requires that environmental reviews and authorization decisions for major projects occur within two years from the date of publication of the NOI to the date of issuance of the Record of Decision (ROD), and all necessary authorizations be issued in 90 days from the ROD.

Following the issuance of this NOI, FHWA and MassDOT will coordinate with the Participating and Cooperating Agencies to develop study documentation and the DEIS.

- Continued Scoping outreach is anticipated in spring of 2024 following publication of this NOI.
- The Draft EIS is anticipated to be issued in spring of 2025.
- The combined Final EIS and ROD is anticipated to be issued in winter of 2026.
- All Federal permits and authorizations are anticipated to be received by spring of 2026.

Refer to the Supplementary NOI Document for additional schedule details.

*(f) Scoping and Public Review*

In accordance with 23 U.S.C. 139(f)(4)(E)(ii), FHWA and MassDOT have incorporated public and stakeholder comment obtained relative to the Cape Cod Bridges Program Environmental Notification Form (ENF) filing under the Massachusetts Environmental Policy Act (MEPA) (<https://eeaonline.eea.state.ma.us/EEA/MEPA-eMonitor/submittal/efe01f7d-41af-4e7d-84b6-1de46baa8818>). The MassDOT held five rounds of public information meetings between June 2021 and March 2023 and convened an

Advisory Group comprised of local interests and representation to provide feedback and share information throughout Program development.

The public and agency Scoping process is continuing with the publication of this NOI. Publication of this NOI initiates a 30-day Scoping period during which time the public, Tribal governments and other Federal, State, and local agencies are requested to review and comment on any element of the Cape Cod Bridges Program, including the Purpose and Need for the proposed action; the Alternatives Retained for Detailed Study; and identification of any potentially significant adverse environmental impacts to be evaluated in the EIS.

To ensure that the full range of issues related to the Cape Cod Bridges Program is addressed, and all significant issues are identified, comments and suggestions are invited from all interested parties during Scoping. The FHWA will hold at least one public Scoping meeting upon publication of this NOI as part of the Scoping process for the EIS. Advanced notice of the date, time and location of the public Scoping meeting will be provided to the public through the Program website, public notices, and press releases. Such comments or questions concerning this Notice and/or the scope of the EIS, including the Purpose and Need, Alternatives Retained for Detailed Study, and impacts to be evaluated, may be submitted via the Program website or in writing to FHWA or MassDOT at the addresses provided above. Public input received during the Scoping process will be considered in the development of the DEIS. Once complete, the DEIS will be available for agency review and comment prior to the DEIS Public Hearing and for public review at the DEIS Public Hearing. Advanced notice of the date, time and location of the Public Hearing will be provided to the public through the Program website, public notices, and press releases. All substantive public comments on the DEIS will be addressed in the Final EIS (FEIS).

The FHWA intends to issue a single document that consists of the FEIS and ROD pursuant to 49 U.S.C. 304a(b) [and 23 U.S.C. 139(n)(2)] unless FHWA determines that statutory criteria or practicability considerations preclude issuance of such a combined document.

*(g) Request for Identification of Potential Alternatives, Information, and Analyses Relevant to the Proposed Action*

To ensure that a full range of issues related to the Cape Cod Bridges Program is addressed and all potential issues are

identified, FHWA invites comments and suggestions from all interested parties. The FHWA requests comments and suggestions on potential alternatives and impacts, and the identification of any relevant information, studies, or analyses of any kind concerning impacts affecting the quality of the human and natural environment. Any information presented herein, including the Purpose and Need, Alternatives Retained for Detailed Study, and identification of impacts, may be revised after consideration of the comments. The purpose of this request is to bring relevant comments, information, and analyses to the attention of FHWA, as early in the process as possible, to enable FHWA to make maximum use of this information in decision making. Comments may be submitted according to the instructions in the **ADDRESSES** section of this Notice.

**Joi B. Singh,**

*Division Administrator, Cambridge, MA.*

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**BILLING CODE 4910-22-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

#### Notice of Final Federal Agency Actions on Proposed Highway in California

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

**ACTION:** Notice of limitation on claims for judicial review of actions by the California Department of Transportation (Caltrans).

**SUMMARY:** The FHWA, on behalf of Caltrans, is issuing this notice to announce actions taken by Caltrans, that are final. The actions relate to a proposed highway project, State Route 49 and State Route 4, from post miles: 4-8.4-9.1, R20.8-21.4 within the City of Angels Camp in the County Calaveras County, State of California. Those actions grant licenses, permits, and approvals for the project.

**DATES:** By this notice, the FHWA, on behalf of Caltrans, is advising the public of final agency actions subject to 23 U.S.C. 139(l)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before July 29, 2024. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period still applies.

**FOR FURTHER INFORMATION CONTACT:** For Caltrans: Jonathan Coley-Branch Chief,

California Department of Transportation, Northern San Joaquin Environmental Management Branch 1, 1976 Doctor Martin Luther King Junior Boulevard, Stockton, CA 95205. Office Hours 8 a.m.-5 p.m., Pacific standard time, (209) 479-4083 or email at [Jonathan.coley@dot.ca.gov](mailto:Jonathan.coley@dot.ca.gov).

**SUPPLEMENTARY INFORMATION:** Effective July 1, 2007, the Federal Highway Administration (FHWA) assigned, and the California Department of Transportation (Caltrans) assumed, environmental responsibilities for this project pursuant to 23 U.S.C. 327. Notice is hereby given that the Caltrans, have taken final agency actions subject to 23 U.S.C. 139(l)(1) by issuing licenses, permits, and approvals for the following highway project in the State of California: The Calaveras 49 Mobility Improvement Project will make intersection, roadway, pedestrian, and bicycle improvements along State Route 49 from post miles 8.4 to 9.1 and on State Route 4 from post miles R20.8 to R21.4 in the City of Angels Camp in Calaveras County. The actions by the Federal agencies, and the laws under which such actions were taken, are described in the Final Environmental Assessment (EA)/Finding of No Significant Impact (FONSI) for the project, approved on June 29, 2023, in the Notice of Decision (NOD) issued on July 5, 2023, and in other documents in the project records. The EA, NOD, and other project records are available by contacting Caltrans at the address provided above. The Caltrans EA and NOD can be viewed and downloaded from the project website at <https://dot.ca.gov/caltrans-near-me/district-10/district-10-current-projects/10-1h010>.

This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. National Environmental Policy Act of 1969
  2. Clean Air Act, 42 U.S.C. 7401-7671
  3. Endangered Species Act of 1973 (ESA), 16 U.S.C. 1531-1544
  4. National Historic Preservation Act of 1966 (NHPA)
  5. Clean Water Act, 33 U.S.C. 1251-1387 (sections 319, 401, and 404)
  6. Executive Order 12989, Federal Actions to Address Environmental Justice and Low-Income Populations
  7. Resource Conservation and Recovery Act of 1976
  8. Comprehensive Environmental Response, Compensation and Liability Act of 1980
- Title VI of the Civil Rights Act of 1964, as amended