



# Cape Cod Bridges Program

## Bourne, Massachusetts

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### Appendix 1

#### National Environmental Policy Act and Program Preliminary Actions

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## Acronyms and Abbreviations

Acronym/Abbreviation	Definition
CFR	Code of Federal Regulations
EIS	Environmental Impact Statement
FHWA	Federal Highway Administration
MassDOT	Massachusetts Department of Transportation
NEPA	National Environmental Policy Act
NOI	Notice of Intent
USC	United States Code

# 1 Introduction

This National Environmental Policy Act (NEPA) and Program Preliminary Actions Appendix has been prepared in support of the Draft Environmental Impact Statement (DEIS) for the Cape Cod Bridges Program (the Program), in accordance with the following federal statutes, regulations, and guidance:

- National Environmental Policy Act (NEPA) of 1969, as amended, 42 United States Code (USC) 4321 et seq.
- *Efficient Environmental Reviews for Project Decisionmaking and One Federal Decision*, 23 USC 139.
- Federal Highway Administration's (FHWA) regulations implementing NEPA, *Environmental Impact and Related Procedures* [23 Code of Federal Regulations (CFR) 771], and corresponding guidance, Technical Advisory (T 6640.8A): *Guidance for Preparing and Processing Environmental and Section 4(f) Documents* (October 30, 1987).

## 2 NEPA Preliminary Determinations

### 2.1 Lead Federal Agency Determination

On January 23, 2023, in response to a December 19, 2022, request from the Massachusetts Department of Transportation (MassDOT) indicating its intention to fund a portion of the Program with USDOT funding, the FHWA Massachusetts Division agreed to serve as the lead federal agency for the Program. **Attachment 1** provides FHWA's determination.

### 2.2 NEPA Class of Action Determination

On August 11, 2023, the FHWA notified MassDOT that an Environmental Impact Statement (EIS) would be required for the Program in compliance with 23 USC 139, as amended by the Bipartisan Infrastructure Law. The FHWA indicated that its determination was made "to ensure full and fair discussion of significant environmental impacts are disclosed to decision makers and the public, and to ensure all reasonable alternatives that would avoid or minimize adverse impacts or enhance the quality of the environment are considered." **Attachment 2** provides the Class of Action determination.

### 3 Summary of Environmental Impact Statement Scoping Process

In accordance with the requirements of NEPA (42 USC 4321), 23 USC 139, and FHWA's regulations implementing NEPA (23 CFR 771.109 and 23 CFR 771.111), MassDOT conducted early coordination with appropriate agencies and the public to determine the scope of issues for analysis in the Program's EIS, including the following:

- Invite the participation of potentially affected Federal, State, Tribal, local agencies and governments, and likely affected or interested persons (including those who might not be in accord with the action);
- Conduct a scoping meeting or meetings, publish scoping information, or use other means to communicate with those persons or agencies who may be interested or affected, which the agency may integrate with any other early planning meeting; and
- Publish a Notice of Intent (NOI) to prepare an EIS in the Federal Register.

On February 29, 2024, the FHWA published an NOI to prepare an EIS for the Program in the Federal Register. The NOI publication formally initiated the NEPA process and established a scoping period to obtain input and comments from agencies and the public on the following:

- Purpose and Need for the proposed action
- Alternatives Retained for Detailed Study
- Identification of any potentially significant adverse environmental impacts to be evaluated in the EIS

The FHWA and MassDOT held a virtual public meeting on April 25, 2024, as part of the scoping process for the EIS. Additionally, MassDOT held an open house in the town of Bourne on May 13, 2024, which included daytime and evening sessions, and extended the public comment period through May 31, 2024.

**Attachment 3** provides the EIS Scoping Process Memorandum (June 2025), which documents the process that the FHWA and MassDOT used to solicit agency and public review and comment during scoping for the Program.<sup>1</sup> Attachment 3 also includes the following supplemental materials:

- A copy of the NOI published in the Federal Register (February 29, 2024)
- Coordination materials with Cooperating Agencies
- Public outreach and meeting materials

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<sup>1</sup> The FHWA determined that a scoping report was not required for the Cape Cod Bridges Program (HNTB, Meeting Summary, January 18, 2024, Interagency Coordination Meeting).

- Scoping comments received from federal, state, and local agencies, and the public, through June 7, 2024.<sup>2</sup>

**Appendix 6.2, Responses to Comments**, provides the responses to comments.

## 4 Program Memorandum of Understanding

Based on their collaboration during the development of the foundational studies that evaluated alternatives for addressing the deteriorating performance of the Sagamore and Bourne Bridges, MassDOT and the U.S. Army Corps of Engineers (USACE) established a Memorandum of Understanding regarding Sagamore Bridge, Bourne Bridge, and their approach highway infrastructure. The first Memorandum of Understanding between the USACE and the Commonwealth of Massachusetts was signed on June 28, 2018. The Memorandum of Understanding was updated on July 7, 2020, and again on March 21, 2024. **Attachment 4** provides the Memorandum of Understanding (original and updated versions).

## 5 Attachments

- Attachment 1. Lead Federal Agency Determination
- Attachment 2. Class of Action Determination
- Attachment 3. EIS Scoping Process Memorandum and Materials
- Attachment 4. Memorandum of Understanding between United States Army Corps of Engineers and the Commonwealth of Massachusetts

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<sup>2</sup> The EIS Scoping Process Memorandum indicates that 91 members of the public provided comments during the scoping period. The correct number is 89 individual commenters; the memorandum inadvertently counted two commenters twice.