



Cape Cod Bridges Program

Bourne, Massachusetts

Appendix 5.3

Section 4(f) *De Minimis* Determination for Use of Cape Cod Canal Historic District

SUBMITTED TO:

Federal Highway Administration
Massachusetts Division
220 Binney Street, 9th Floor
Cambridge, MA 02142

PROPONENT:

The Massachusetts Department of
Transportation
Highway Division
10 Park Plaza
Boston, MA 02116

Submitted June 2026

massDOT
Massachusetts Department of Transportation

Table of Contents

1 Introduction 1

2 Description of Cape Cod Canal Historic District 1

3 Impacts, Use, and Section 4(f) Determination 2

4 Coordination and Consultation 3

5 Conclusion and Approval 3

Attachments

- Attachment 1: Section 106 Effect Determination
- Attachment 2: Documentation of Consultation with Consulting Parties

Acronyms and Abbreviations

Acronym/Abbreviation	Definition
APE	Area of Potential Effect
CFR	Code of Federal Regulations
FHWA	Federal Highway Administration
MassDOT	Massachusetts Department of Transportation
NRHP	National Register of Historic Places
Program	Cape Cod Bridges Program
SHPO	State Historic Preservation Officer

1 Introduction

As a U.S. Department of Transportation (USDOT)-funded transportation program administered by the Federal Highway Administration (FHWA), the Cape Cod Bridges Program (Program) is subject to the regulatory requirements of Section 4(f) of the U.S. Department of Transportation Act of 1966 (USDOT Act), as amended.¹ Section 4(f) of the USDOT Act, commonly referred to as Section 4(f), protects publicly owned parks, recreation areas, and wildlife and waterfowl refuges of national, state, or local significance, or any publicly or privately owned historic site listed or eligible for listing in the National Register of Historic Places (NRHP) from “use” by transportation projects that receive funding from or require approval by an agency of the USDOT. FHWA’s regulations for implementing Section 4(f) are available at Title 23 Code of Federal Regulations (CFR) 774.

The demolition of the NRHP-eligible Sagamore and Bourne Bridges and the construction of replacement bridges would affect the NRHP-eligible Cape Cod Canal Historic District through direct use of the district and the demolition of two [individually eligible](#) contributing resources. [Additionally, the Sagamore and Bourne Bridge projects would entail the construction and operation of transportation infrastructure, requiring temporary occupancy and permanent easements within the Cape Cod Canal Federal Navigation Project \(FNP\). Due to the replacement bridge type and the implementation of an extensive landscaping plan following construction completion, FHWA has determined that the Program would have “no adverse effect” on the Cape Cod Canal Historic District under 36 CFR part 800. The Massachusetts State Historic Preservation Officer \(SHPO\) concurred with FHWA’s determination. Based on SHPO’s concurrence with the Section 106 finding, FHWA has determined that the proposed use of the NRHP-eligible Cape Cod Canal Historic District would be *de minimis*.](#) For historic sites, under 23 CFR 774.17, a *de minimis* impact means that the Administration has determined, in accordance with 36 CFR part 800, that no historic property is affected by the project or that the project will have “no adverse effect” on the historic property in question. [Appendix 5.3 documents FHWA’s determination in accordance with Section 4\(f\) and FHWA’s implementing regulations.](#)

2 Description of Cape Cod Canal Historic District

Cape Cod Canal is an approximately 17.4-mile-long deep-water marine navigation canal, with an approximately 9.3-mile-long approach channel and an 8.1-mile-long land cut extending easterly from Buzzards Bay to Cape Cod Bay. Within the land cut portion, the canal has an average width of 540 feet and a depth of 32 feet at mean low water.

Explorations into the concept of a canal to encourage commerce among European colonists and Indigenous tribes date to the early 1600s. After several failed attempts to dig the canal in the late 18th century, the privately owned Boston, Cape Cod and New York Canal Company built Cape Cod Canal from 1909 to 1914. It was later purchased by the U.S. government and substantially improved by

¹ 49 United States Code (USC) Section 303, 23 USC 138

the U.S. Army Corps of Engineers (USACE) between 1933 and 1940. The canal had a significant impact on maritime transportation and economic development in New England, as well as an important role in coastal defense during World War II. **Section 4.16, Cultural Resources**, in the Final Environmental Impact Statement (FEIS) provides additional details about the historic district.

The Cape Cod Canal Historic District includes the waterway and the historic buildings and structures associated with the construction and operation of Cape Cod Canal that are currently managed and operated by the USACE. It has been determined eligible for listing in the NRHP. USACE issued a formal determination of its NRHP-eligibility (along with Sagamore and Bourne Bridges as contributing resources) as part of a Programmatic Agreement with the SHPO, related to USACE's Major Rehabilitation Evaluation Report/Environmental Assessment and Finding of No Significant Impact for the Cape Cod Canal Highway Bridges. USACE signed and fully executed the [Programmatic Agreement](#) on March 11, 2022.² The Cape Cod Canal Historic District is included in the Massachusetts Historical Commission's Inventory of Historic and Archaeological Assets of the Commonwealth (MHC Inventory), which is provided online as the Massachusetts Cultural Resources Information System (MACRIS), as BOU.AF ([town of Bourne](#))/FAL.BG ([town of Falmouth](#))/SDW.Z ([town of Sandwich](#))/WRH.V ([town of Wareham](#)).

3 Impacts, Use, and Section 4(f) Determination

The proposed construction and operation of new bridges to replace the existing Sagamore and Bourne Bridges within the NRHP-eligible Cape Cod Canal Historic District would constitute a use of the Section 4(f)-protected property. Additionally, the Build Alternative would result in the loss of the two historic bridge structures that are contributing resources to the NRHP-eligible Cape Cod Canal Historic District.

In coordination with FHWA and with input from the public, MassDOT selected the replacement bridge type design in part because it has a kinship with the existing historic high-level, through truss bridges and would provide a similar monumental gateway experience across Cape Cod Canal. By incorporating a network arch main span across the canal and maintaining the arched bridge profiles similar to the existing structures, the replacement bridge type would minimize impacts to the feeling and setting of the NRHP-eligible Cape Cod Canal Historic District. MassDOT also determined that the replacement type design would have advantages of constructability, cost, and public preference over the other bridge type options that were evaluated.

In accordance with 36 CFR 800.5(b), [FHWA](#) has determined that the replacement bridge type of the Build Alternative would be compatible with the NRHP-eligible Cape Cod Canal Historic District and would have no adverse effect on the historic district.

In addition to the replacement highway bridges, the Sagamore Bridge and Bourne Bridge projects would include approach roadways, shared-use paths, drainage structures, and transportation-related

² <https://www.nae.usace.army.mil/Portals/74/docs/Topics/Cape%20Cod%20Canal%20Bridges/Reports/MRER-Appendix-K.pdf>

[infrastructure within the Cape Cod Canal FNP lands abutting Cape Cod Canal, requiring temporary occupancies and permanent easements of the Cape Cod Canal FNP. Three shared-use path railroad crossings to south Canal Service Road, including railroad crossing safety measures, are proposed within the Cape Cod Canal FNP. Following construction completion, MassDOT would revegetate disturbed areas and implement an extensive landscaping program to soften the visual appearance of the new infrastructure. As a result, FHWA has determined that adverse effects to the Cape Cod Canal Historic District would be avoided.](#)

[On June 22, 2026, SHPO concurred with FHWA’s determination of no adverse effect.](#)

By its definition (23 CFR 774.17), a finding of “no adverse effect” to the Cape Cod Canal Historic District would result in a Section 4(f) *de minimis* impact determination. Under FHWA’s Section 4(f) implementing regulations, consideration of avoidance alternatives is not required for a *de minimis* impact determination.

4 Coordination and Consultation

In accordance with 36 CFR 800.5(b), [FHWA has requested, and SHPO has provided,](#) written concurrence that the replacement bridge type design [and the Program’s required temporary uses and permanent easements within the Cape Cod Canal FNP](#) would avoid an adverse effect on the Cape Cod Canal Historic District. Per the coordination requirements required for a *de minimis* impact determination, 23 CFR 774.5(b)(1), FHWA [has also consulted](#) with the Consulting Parties and [received](#) written concurrence from the SHPO that the Program would have “no adverse effect” on the Cape Cod Canal Historic District. Per 23 CFR 774.5(b)(1)(iii), public notice and comment, beyond that required by 36 CFR part 800, is not required prior to FHWA making a *de minimis* impact determination for historic properties. [Attachment 1 provides SHPO’s written concurrence with FHWA’s Effect Finding.](#) [Attachment 2 provides documentation of consultation with Consulting Parties.](#)

5 Conclusion and Approval

Prior to making a *de minimis* impact determination for the replacement of the contributing historic resources with new bridges within the Cape Cod Historic District, FHWA must complete the following actions, as directed in 23 CFR 774.5:

- **Consult with the Consulting Parties identified in accordance with 36 CFR 800.**

Documentation of consultation with Consulting Parties and coordination among the FHWA, SHPO, and the Advisory Council on Historic Preservation (ACHP) is provided in **Section 4.16, Cultural Resources** and **Attachment 2**. [As noted in Attachment 2, on July 3, 2025, ACHP declined to further participate as a Consulting Party. In accordance with the requirements of 36 CFR 800.6\(b\)\(1\)\(iv\), the executed Programmatic Agreement will be filed with ACHP.](#)

- **Receive written concurrence from SHPO and ACHP in the finding of “no adverse effect” on the Cape Cod Historic District in accordance with 36 CFR part 800.**

[FHWA has consulted](#) with SHPO regarding the proposed finding of “no adverse effect” to the NRHP-eligible Cape Cod Canal Historic District. As part of this consultation, [FHWA notified](#) SHPO of [its](#) intent to make a *de minimis* impact determination based on SHPO’s concurrence with the finding of “no adverse effect” to the NRHP-eligible historic district ([Attachment 1](#)).

[Accordingly](#), FHWA [has](#) determined [and documented herein](#) that the transportation use of the Section 4(f) property [would](#) result in a *de minimis* impact, [thereby completing the Section 4\(f\) evaluation process](#).