



DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA-2023-0022]

Notice of Intent to Prepare an Environmental Impact Statement for a Proposed Highway Project; Madison to Wisconsin Dells, Wisconsin

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

ACTION: Notice of intent to prepare an environmental impact statement (EIS).

SUMMARY: FHWA, in coordination with the Wisconsin Department of Transportation (WisDOT), is issuing this Notice of Intent (NOI) to solicit comment and advise the public, agencies, and stakeholders that an environmental impact statement will be prepared to study potential improvements to 67 miles of Interstates 39, 90, and 94 (I-39/90/94) in Dane, Columbia, Sauk, and Juneau counties, Wisconsin. The study corridor begins at United States Highway (US) 12/18 in Madison and terminates at US 12/Wisconsin State Highway (WIS) 16 in Wisconsin Dells. The study will also evaluate I-39 from its split with I-90/94 (the I-39 I-90/94 split) to Levee Road near Portage.

Persons or agencies who may be affected by the study are encouraged to comment on the information in this NOI and the NOI Additional Information document. All comments received in response to this NOI document will be considered, and any information presented herein, including the preliminary purpose and need, preliminary alternatives, and potential impacts, may be revised in consideration of comments.

DATES: Comments must be received on or before [INSERT DATE 30 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES:

This NOI and the NOI Additional Information document are available in the docket referenced above at www.regulations.gov and on the study website located at <https://wisconsin.gov/Pages/projects/by-region/sw/399094/enviro.aspx>. The NOI Additional Information document also 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 or the study website located at <https://wisconsin.gov/Pages/projects/by-region/sw/399094/enviro.aspx>. Follow the online instructions on the Public Involvement page for submitting comments.

Mailing address or for hand delivery or courier: Federal Highway Administration Wisconsin Division, 525 Junction Road, Suite 8000, Madison, WI 53717.

Study email address: dotswriterstatestudy@dot.wi.gov

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, including any personal information provided. A summary of the comments received will be included in the Draft EIS.

FOR FURTHER INFORMATION CONTACT:

FHWA: Bethaney Bacher-Gresock, Environmental Manager, Federal Highway Administration – Wisconsin Division, 525 Junction Road, Suite 8000, Madison, WI 53717; email: bethaney.bacher-gresock@dot.gov; 608-662-2119.

WisDOT: Dan Schave, PE, Project Supervisor, Wisconsin Department of Transportation, 2101 Wright Street, Madison, WI 53704, daniel.schave@dot.wi.gov, 608-246-3251.

Persons interested in receiving study information can also use the study email address referenced above to be added to the study mailing list.

SUPPLEMENTARY INFORMATION:

FHWA and WisDOT are committed to public involvement for this study.

FHWA, as the lead Federal agency, and WisDOT as joint lead agency/study sponsor, are preparing an EIS to evaluate transportation solutions on I-39/90/94 between Madison and Wisconsin Dells, in Dane, Columbia, Sauk, and Juneau counties, Wisconsin. 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 NOI Additional Information document includes additional details about early coordination activities with study committees, the public, agencies, and major stakeholders to introduce the study and seek early input on the purpose and need, alternatives, and potential environmental issues. All public comments will be considered, and changes may be made to the study as a result.

The purpose of this notice is to bring relevant comments, information, and analyses to the attention of FHWA and WisDOT as early in the process as possible. 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. The study purpose and need and/or the study alternatives may be revised based on comments received during the comment period on this notice.

Preliminary Purpose and Need for the Proposed Action

The purpose of the I-39/90/94 study is to address existing and future traffic demands, safety issues, aging and outdated corridor infrastructure, and corridor

resiliency. The need for proposed improvements sets the stage for developing and evaluating possible alternatives. Traffic volumes and congestion are increasing, impacting travel reliability. Heavy recreational, commuting and freight traffic uniquely affect traffic operations in the study corridor. Recreational traffic occurs typically on Fridays and Sundays in the summer. Crashes at many locations along the study corridor exceed the statewide average crash rate. Congestion and geometric/design deficiencies contribute to elevated crash rates. Pavement maintenance projects are anticipated in 24 of the next 30 years somewhere in the study corridor, which presents ongoing travel delay and congestion for daily commercial and recreational traffic. There are 113 structures in the I-39/90/94 study corridor. 84 structures will be over 50 years old in the year 2030. In addition to aging structures, many bridges do not meet current vertical and lateral design standards. Flood events in 2008 and 2018 caused partial or full interstate closures, impacting corridor resilience. Closures disrupt vital connections for commerce and emergency services. The closures cause substantial indirection for detoured traffic, causing congestion and delays on alternate routes. The study's purpose and need statement may be revised based on the consideration of public and agency comments.

Preliminary Description of the Proposed Action and Alternatives the Environmental Impact Statement Will Consider

WisDOT and FHWA are developing a range of alternatives for detailed study in the Draft EIS. Alternatives development will include consideration of agency and public comments received during the NOI comment period. In addition to the No Build alternative, potential alternatives include Transportation Demand Management/Transportation System Management and Operations alternative and Build alternatives. A description of alternatives is provided below.

The No Build alternative assumes no improvements other than those implemented for routine maintenance. The No Build alternative assumes the I-39/90/94 bridge

replacement over the Wisconsin River and the WIS 60 interchange reconstruction, both in Columbia County, will be completed. WisDOT plans to replace the I-39/90/94 bridges over the Wisconsin River as a separate project; FHWA and WisDOT completed an Environmental Assessment and Finding of No Significant Impact in June 2021. Construction is expected to start in 2024. The bridge replacement has independent utility; the bridges will be reconstructed to accommodate future potential improvements to I-39/90/94 evaluated during this study, thus not forcing or foreclosing future alternatives.

WisDOT and FHWA also completed a Categorical Exclusion in September 2019 for reconstructing the I-39/90/94 interchange with WIS 60. The bridges need replacement due to structural deterioration. The reconstruction project has independent utility; the interchange will be reconstructed to accommodate future potential improvements to I-39/90/94 evaluated during this study, thus not forcing or foreclosing future alternatives. FHWA approved an Interstate Access Justification Report for the interchange in June 2020. WisDOT began construction in summer 2022 to replace the interstate bridges at WIS 60 and reconfigure the interchange ramps.

The Transportation Demand Management/Transportation System Management and Operations alternative includes regional strategies to manage travel demand and operational efficiency, which will include transit investments by others. This alternative would not meet the study purpose and need as a standalone alternative, but WisDOT expects to include several of these measures in other Build Alternatives.

The preliminary I-39/90/94 mainline Build Alternatives range from Spot Improvements to Freeway Modernization alternatives.

- *Off Alignment (East Reliever)*. As part of a previous study, WisDOT evaluated four off alignment alternatives, or east reliever route. WisDOT eliminated off alignment alternatives from further study based on the alternatives' greater

impacts compared to freeway modernization alternatives, which address purpose and need.

- *Spot Improvements.* This alternative would retain the existing highway in its existing configuration and would include only spot safety and operational improvements with minimal or no right of way acquired. This alternative does not meet the study purpose and WisDOT will not advance the alternative for continued study.
- *Freeway Modernization.* WisDOT will continue to evaluate three Build modernization alternatives that would reconstruct the freeway to modern design standards whenever possible. All the modernization alternatives will also consider implementing strategies to improve operations, including Collector-Distributor (C-D) lanes, managed lanes, and/or auxiliary lanes. In the vicinity of the I-39 I-90/94 Split, where the interstate mainline has been impacted by prior flood events, all modernization alternatives include a combination of profile adjustments and waterway crossing design to reduce flood risk.
- *Modernization of Existing Travel Lanes.* This alternative retains the existing interstate freeway lane configuration, but it would be reconstructed to modern design standards along the existing alignment. Reconstruction would replace pavement, bridges, and interchanges, while making the improvements described above.
- *Modernization Plus Added General-Purpose Lane.* This alternative would reconstruct I-39/90/94 with 12-foot shoulders, similar to the Freeway Modernization alternative, but provide an additional general-purpose lane in each direction along the present freeway alignment throughout a majority of the corridor.

- *Modernization Hybrid.* This alternative would reconstruct I-39/90/94 with a combination of maintaining the same number of lanes and adding a general purpose lane. The Modernization Hybrid alternative also includes managed lanes, C-D lanes and auxiliary lanes to further manage traffic. Managed lanes could be used in a variety of situations including part-time hard shoulder running (time of day, day of week, or time of year), high-occupancy vehicle (HOV) lanes, transit only lanes, or Connected and Automated Vehicles (CAV). From US 12/18 to the I-39 I-90/94 Split, the interstate would feature the same number of general-purpose lanes as are currently present and include an 18-foot inside shoulder that could be utilized as a managed lane. C-D lanes are proposed between the I-94/WIS 30 and US 151 interchanges. Auxiliary lanes are proposed between the US 12/18 and I-94/WIS 30 interchanges and between the US 151 and WIS 19 interchanges. A general-purpose lane would be added to I-90/94 from the I-39 I-90/94 Split to the US 12/WIS 16 interchange. I-39 from the I-39 I-90/94 Split to Levee Road would maintain the same number of lanes as the existing condition.

All modernization alternatives would include alternatives that reconstruct 15 interchanges in the study corridor. In response to a request from the city of Madison and in alignment with local and regional plans, WisDOT will also evaluate potential new interchange access at Hoepker Road on I-39/90/94, and at a proposed extension of Milwaukee Street on I-94, located east of the interchange with I-39/90. These new interchanges may or may not be part of the preferred alternative, depending on public and agency input and how well the interchange alternatives meet purpose and need. The NOI Additional Information document provides more detail on interchange alternatives under consideration.

The alternatives may be revised based on the consideration of public and agency comments. The range of reasonable alternatives will be finalized after consideration of

comments received during the comment period on this notice and will be documented in the Draft EIS.

Brief Summary of Expected Impacts

The EIS will evaluate the potential social, economic, and environmental impacts/effects resulting from the implementation of the Build and No Build alternatives. FHWA and WisDOT will seek input from the public and agencies during the EIS development process regarding the effects of the project. WisDOT identified preliminary impacts of alternatives, which is provided in the NOI Additional Information document. The following key resources and issues have been identified for evaluation in the EIS and supporting technical studies:

Wetlands and Waters of the United States: Build alternatives would likely require fill and removal of material from Waters of the United States and impacts to wetlands considered to be jurisdictional by the U.S. Army Corps of Engineers (USACE) and impacts to wetlands and waterways considered to be jurisdictional by the Wisconsin Department of Natural Resources (WDNR).

Floodplains: I-39/90/94 travels through areas where prior flooding events along the Wisconsin and Baraboo rivers required closing or partially closing the interstate. The Build alternatives may require floodplain filling and measures to avoid, minimize and mitigate flood risks on the interstate, as well as surrounding properties.

Section 4(f) and/or Section 6(f) Public Lands: The Build alternatives anticipate potential use at the Pine Island Wildlife Area. A *de minimis* use at the Glacial Drumlin Trail is anticipated where it crosses under I-39/90/94. No uses are anticipated at the Baraboo River Waterfowl Production Area in Columbia County, nor the Cherokee Marsh Wildlife Area, McCarthy Park, Token Creek Park, and Northeast Park in Dane County.

Section 4(f) and/or Section 106 Historic Resources: There are properties in the study corridor area of potential effect that are either listed, eligible or potentially eligible

for listing on the National Register of Historic Places. Historic or potentially historic properties include Rocky Arbor State Park, houses, farmsteads, commercial properties, a school and a chapel. FHWA and WisDOT will assess effects and determine if there is a potential use of the property during the alternatives refinement and Section 106 consultation processes with the State Historic Preservation Office and other consulting parties.

Threatened and Endangered Species: Federal- and State-listed species occur in the study corridor. FHWA and WisDOT will determine effects through alternatives refinement, United States Fish and Wildlife (USFWS) Section 7 consultation and coordination with the WDNR under the WisDOT/WDNR Cooperative Agreement.

Right of Way Acquisition and Relocations: Build alternatives would likely require full and partial acquisitions of residential and non-residential properties abutting the study corridor.

Farmland and Agricultural Impacts: Build alternatives would likely require partial acquisition from farm properties abutting the study corridor and potentially require an Agricultural Impact Statement in coordination with State and Federal agencies depending on the magnitude of impacts.

Noise: Noise sensitive receptors, including homes, parks, schools, and churches are present throughout the study corridor. FHWA and WisDOT will identify impacts during alternatives refinement.

Environmental Justice: Low-income and minority environmental justice populations are present along the study corridor, primarily in the Madison metropolitan area and Wisconsin Dells. Preliminary impact analyses do not anticipate full acquisitions of either residential or non-residential properties where environmental justice populations are present. Partial acquisitions may occur. Analysis and public involvement will be conducted during the NEPA review to assess whether the Build alternatives would result

in any disproportionately high and adverse effects on low-income and minority communities.

The EIS will evaluate the expected impacts and benefits to the known resources above, as well as the following resources: land use, social and community resources, economics, air quality, transportation systems, ecosystem resources, stormwater and water quality, hazardous waste sites, and visual resources. The EIS will evaluate direct, indirect, and cumulative impacts to these resources, as applicable. The level of review of the identified resources will be commensurate with the anticipated effects to each resource from the proposed project 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 effects, whether the anticipated effects would be beneficial or adverse, as well as avoidance and mitigation measures for unavoidable adverse effects.

Additional information on the purpose and need statement, alternatives, potential project environmental impacts, as well as the draft Coordination Plan for Agency and Public Involvement is provided within the NOI Additional Information document available for review in the docket established for this study and on the study website as noted in the **ADDRESSES** section. The studies to identify the impacts as well as the analyses of impacts from the retained alternatives will be presented in the Draft EIS. FHWA and WisDOT are inviting public input during the NOI comment period. The identification of impacts for analysis in the Draft EIS may be revised due to the consideration of public comments.

Anticipated Permits and Other Authorizations

Permits and authorizations anticipated for the project include a Section 401 water quality certification and a Section 404 permit under the Clean Water Act (33 U.S.C. 1344). FHWA and WisDOT will prepare evaluations under Section 4(f) of the USDOT

Act of 1966 (23 U.S.C. 138 and 49 U.S.C. 303) and Section 6(f) of the Land and Water Conservation Fund Act of 1965 (54 U.S.C. 200302); will perform consultation under Section 106 of the National Historic Preservation Act of 1966 (54 U.S.C. 300101-307108) concurrently with the NEPA environmental review process; and will consult with the USFWS in accordance with Section 7 of the Endangered Species Act of 1973 (16 USC 1531 *et seq.*). FHWA and WisDOT will also work with Cooperating and Participating Agencies, to determine if additional permits or authorizations are required under these or other authorities.

Schedule for the Decision-Making Process

After this NOI is issued, WisDOT will coordinate with the Participating and Cooperating agencies to develop study documentation and the Draft EIS. The Draft EIS is anticipated to be issued in Spring 2024. The combined Final EIS and Record of Decision is anticipated to be issued in Fall 2024, within 24 months of the publication of this NOI. Per 23 U.S.C. 139(d)(10), permits and authorizations should be completed by no later than 90 days after the issuance of the Record of Decision. However, for this project WisDOT has requested in accordance with 23 U.S.C. 139(d)(10)(C)(ii) that the 404 permit and 401 water quality certification follow a different timeline because the construction date is not expected until 2026 or later.

Description of Agency and Public Review and Scoping Process

FHWA and WisDOT held public involvement meetings on September 13 and 14, 2022, to introduce the corridor study. The agencies also hosted an early coordination meeting with potential Cooperating and Participating Agencies on September 13, 2022. During both the public and agency meetings FHWA and WisDOT provided a study overview, the preliminary NEPA milestone schedule, and reviewed the preliminary study purpose and need and alternatives anticipated to be evaluated during the NEPA process. At the agency coordination meeting, FHWA and WisDOT also included a discussion of

the anticipated roles and responsibilities of Cooperating and Participating Agencies. FHWA and WisDOT provided a 30-day comment period for public and agency input on preliminary study information provided in those meetings.

FHWA and WisDOT held a second agency coordination meeting with invited Cooperating and Participating Agencies on January 30, 2023, to present the range of alternatives and preliminary impacts associated with mainline and interchange alternatives. WisDOT forwarded summaries of the purpose and need statement and range of alternatives, as well as a draft Coordination Plan for Agency and Public Involvement and draft Impact Analysis Methodology for a 30-day comment period between April 26, 2023, and May 26, 2023.

FHWA and WisDOT held a second round of public involvement meetings on April 12 and 13, 2023, to present the range of alternatives and preliminary impacts for the interstate mainline and interchanges, as well as two new potential interchanges at Hoepker Road on I-39/90/94 and an extension of Milwaukee Street on I-94, both in the city of Madison, Dane County.

The public and agency scoping process is continuing with the publication of this NOI. WisDOT will announce the NOI on the study website and provide a link to a narrated presentation explaining the scoping process and opportunities to provide comments during the scoping process. Comments from the agencies and the public are requested within this NOI comment period; the study purpose and need and/or the study alternatives may be revised based on comments received, as noted below.

Meetings with Cooperating and Participating Agencies will be held throughout the environmental review process. The draft Coordination Plan for Agency and Public Involvement included within the NOI Additional Information document describes how the public and agencies will continue to be engaged during EIS development. The Draft

EIS will be available for public and agency review and comment prior to the Public Hearing.

Request for Identification of Potential Alternatives, Information, and Analyses Relevant to the Proposed Action

The NOI Additional Information document includes the preliminary purpose and need statement, preliminary range of alternatives and the draft Coordination Plan for Agency and Public Involvement, including the NEPA milestones and permit schedules. With this notice, FHWA and WisDOT request and encourage State, tribal, and local agencies, and the public to review the NOI and NOI Additional Information document and submit comments on any aspect of the study. Specifically, agencies and the public are asked to identify and submit potential alternatives for consideration and any information, such as anticipated significant issues or environmental impacts and analyses, relevant to the proposed study for consideration by the Lead and Cooperating Agencies in developing the Draft EIS. Any information presented herein, including the purpose and need, alternatives, and anticipated impacts may be revised after consideration of the comments. Comments must be received [INSERT DATE 30 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

There are several methods to submit comments as described in the **ADDRESSES** section of this notice. Any questions concerning this proposed action, including comments relevant to alternatives, information, and analyses, should be directed to FHWA or WisDOT at the physical addresses, email addresses, or phone numbers provided in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Authority: 42 U.S.C. 4321 *et seq.*; 23 U.S.C. 139; 23 CFR part 771.

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