



DEPARTMENT OF TRANSPORTATION
Office of the Secretary

[Docket No. DOT-OST-2016-0053]

Establishment of Interim National Multimodal Freight Network

AGENCY: Office of the Secretary of Transportation (OST), Federal Aviation Administration (FAA), Federal Highway Administration (FHWA), Federal Railroad Administration (FRA), Maritime Administration (MARAD), Saint Lawrence Seaway Development Corporation (SLSDC), and U.S. Department of Transportation (DOT).

ACTION: Notice of reopening of comment period and extension of deadline.

SUMMARY: DOT is extending the deadline and comment period for materials related to the Interim National Multimodal Freight Network (Interim NMFN), as established in a notice published on June 6, 2016 at 81 FR 36381. The original notice asked for comments by September 6, 2016. The reopening and extension of the comment period is based on input received from DOT stakeholders that the September 6, 2016 closing date did not provide sufficient time for submission of comments to the Department, as well as an analysis that some comments submitted by States did not include the required statutory certification. DOT agrees that the comment period should be reopened and extended. Therefore, the comment period on the establishment of the Interim NMFN is reopened.

DATES: Comments must be received on or before [INSERT DATE 120 DAYS FROM THE DATE OF PUBLICATION IN THE FEDERAL REGISTER] to receive consideration by DOT with respect to the final designation of the NMFN. Late-filed comments received after this date will be considered to the fullest extent practicable. Comments may be submitted by all interested stakeholders.

ADDRESSES: To ensure that you do not duplicate your docket submissions, please submit them by only one of the following means:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov> and follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Ave. SE, W12-140, Washington, DC 20590-0001.
- *Hand Delivery:* West Building Ground Floor, Room W12-140, 1200 New Jersey Ave. SE, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 366-9329.
- *Instructions:* You must include the agency name and docket number at the beginning of your comments. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. If you have any GIS shapefiles or other geographic information to submit to the docket, please email those files to ryan.endorf@dot.gov with the agency name and docket number in the email.

FOR FURTHER INFORMATION CONTACT: Ryan Endorf, 202-366-4835 or email ryan.endorf@dot.gov.

SUPPLEMENTARY INFORMATION:

Background: Section 70103 of title 49, U.S.C., which was established in section 8001 of the Fixing America's Surface Transportation (FAST) Act, directs the Under Secretary of Transportation for Policy (Under Secretary) to establish a NMFN that will be used to: (1) assist States in strategically directing resources toward improved system performance for the efficient

movement of freight on the NMFN; (2) inform freight transportation planning; (3) assist in the prioritization of Federal investment; and (4) assess and support Federal investments to achieve the national multimodal freight policy goals described in section 70101(b) of title 49, U.S.C., and the national highway freight program goals described in section 167 of title 23, U.S.C.

On June 6, 2016, the Under Secretary established an Interim NMFN that includes the following components: (1) the National Highway Freight Network (NHFN), as established under section 167 of title 23, U.S.C.; (2) the freight rail systems of Class I railroads as designated by the Surface Transportation Board; (3) the public ports of the United States that have total annual foreign and domestic trade of at least 2,000,000 short tons, as identified by the Waterborne Commerce Statistics Center of the Army Corps of Engineers (USACE), using the data from the latest year for which such data are available; (4) the inland and intracoastal waterways of the United States, as described in section 206 of the Inland Waterways Revenue Act of 1978 (33 U.S.C. 1804); (5) the Great Lakes, the St. Lawrence Seaway, and coastal and ocean routes along which domestic freight is transported; (6) the 50 airports located in the United States with the highest annual landed weight, as identified by the FAA; and (7) other strategic freight assets, including strategic intermodal facilities and freight rail lines of Class II and Class III railroads, designated by the Under Secretary as critical to interstate commerce.

The Interim NMFN was published in the Federal Register at 81 FR 36381 on June 6, 2016, and the public was invited to submit comments to the docket through September 6, 2016. In the Federal Register notice, DOT posed several questions for the public to consider, and States and other stakeholders were provided the opportunity to submit additional designations for consideration of inclusion to the Final NMFN to be designated by the Under Secretary. As part of their submission, States were required by statute to certify that they had satisfied the statutory

requirements under 49 U.S.C. 70103(c)(4)(A) and that any additional designations submitted address the factors for designation under 49 U.S.C. 70103(c)(2). Per the statute, only States are required to submit this certification along with their comments; other stakeholders or members of the public do not have this requirement.

Several commenters stated in their comments to the docket that the initial 90-day comment period was insufficient in order to coordinate and prepare their comments and additional designations. In particular, multiple States stated that they did not have sufficient time to consider nominations from their public and private stakeholders, which is a requirement that these States would have needed to certify. Additionally, upon a review of comments submitted by the States, DOT has identified that many comments submitted by States lack the statutorily required certification and thus, DOT cannot consider those comments.

As a result, DOT is reopening the comment period for all stakeholders to submit comments on the Interim NMFN. Comments that have previously been submitted will continue to receive consideration, though States that previously submitted comments should refer to the below section on State Input. Any stakeholder or member of the public is free to submit new comments and to amend or supplement previously submitted comments. In the initial June 6, 2016 Federal Register notice establishing the Interim NMFN at 81 FR 36381, DOT posed a number of questions by mode and solicited input from the public. DOT continues to seek input on these questions and encourages the public to refer back to the original FR notice located at Docket Number DOT-OST-2016-0053. Previously submitted comments can also be viewed at this docket. Interested stakeholders and members of the public can find more information on the Interim NMFN, including maps and tables by State, at <https://www.transportation.gov/freight/InterimNMFN>.

State Input: 49 U.S.C. 70103(c)(4)(D) requires that each State certify that they have considered nominations for additional designations from a wide range of stakeholders, including MPOs, State Freight Advisory Committees (as applicable), and owners and operators of port, rail, pipeline, and airport facilities. Each State proposing additional designations must certify that all additional designations are consistent with the Statewide transportation improvement program (STIP) or State freight plan. Finally, each State must also certify that each proposed designation addresses the factors listed in 49 U.S.C. 70103(c)(2). Each State comment must include a statement addressing these certifications in order to it to receive consideration from DOT. An example of an acceptable certification is the following: “The State of A certifies it considered nominations from the stakeholders and the State Freight Advisory Committee [as applicable], required under 49 U.S.C. 70103(c)(4)(A)(i) and (ii), in identifying additional NMFN designations within the State. These additional designations are consistent with the State’s Statewide Transportation Improvement Program and our State Freight Plan [as applicable – some States may not have a completed State Freight Plan]. Further, the State of A certifies that the proposed additional designations address the factors described in 49 U.S.C. 70103(c)(2).”

States are not required to resubmit any comments provided in response to the June 6, 2016 Federal Register notice unless the State did not provide a certification with their previously submitted comments. If no certification was provided, the State should resubmit their comments with a certification in order to receive consideration. If a State has already provided the required certification and is not seeking to modify those comments or proposed designations, they are not required to resubmit their original comments or certification. Any State offering changes to prior submitted comments, including proposed additional designations, modifications, or deletions, must include a new certification. States that are commenting for the first time must provide a

certification to receive consideration. In all cases, the State must submit a written certification to the docket consistent with 49 U.S.C. 70103(c)(4)(D).

Public Comment: The DOT invites comments by all those interested in the NMFN. Comments on the Interim NMFN may be submitted and viewed at Docket Number DOT-OST-2016-0053. Comments must be received on or before [insert 120 days from the date of publication] to receive full consideration by DOT with respect to the final designation of the NMFN. After [insert 120 days from the date of publication], comments will continue to be available for viewing by the public.

Dated: October 10, 2017

Finch Fulton,

Deputy Assistant Secretary of Transportation for Policy

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