



To: Department of Transportation
Maritime Administration
DOT Docket Number MARAD-2008-0096

From: George E. Schoener, Executive Director
I-95 Corridor Coalition

Subject: Comments on Final Rule 46 CFR Part 393, Federal Register (FR) Volume 73, No. 197, 59530 and as corrected, FR Volume 73, No. 212, 64885: "America's Marine Highway Program"

Purpose:

On behalf of the I-95 Corridor Coalition (the "Coalition"), the following comments are provided, as referenced above, to the U.S. Department of Transportation Maritime Administration's interim rule regarding America's Marine Highway Program. It is the I-95 Corridor Coalition's intent to submit a recommendation for short sea transportation routes (Marine Highway Corridors). The submittal is currently in development and will follow in the near future under separate cover to the Maritime Administration. This filing is intended to address general comments that the Coalition, under the auspices of our Intermodal Program Committee, has ascertained through dialogues with various Coalition members and stakeholders regarding the proposed rule.

Background:

- Public Law 110-140 was enacted December 19, 2002, mandating the Department of Transportation to establish a Short Sea Transportation Program
- On October 9, 2008, the U.S. Department of Transportation, Maritime Administration published an interim rule seeking comment for short sea transportation routes and specific marine highway projects under America's Marine Highway Program in the Federal Register (73FR No 197, 59530).
- On October 31, 2008, a correction was published by the U.S. Department of Transportation, Maritime Administration, in the Federal Register (73FR, No 2112, 64885), reflecting "Due to the current financial environment.....the Maritime Administration is seeking comment on America's Marine Highway Program and recommendations for Marine Highway Corridors and not soliciting applications for specific projects at this time."

Comments:

The I-95 Corridor Coalition is comprised of a number of public and private stakeholders, including the 16 state Departments of Transportation from Maine to Florida and Vermont, affiliate provinces of Quebec and New Brunswick, ports, metropolitan planning organizations and other transportation entities. I-95 Corridor Coalition stakeholders have continually expressed interest and support for a marine highway system as part of a multi-modal transportation system, including conducting research work for the potential for increased marine highway activity within and along the Eastern Seaboard. The Coalition's recently completed Strategic Vision study, which projects a desired modal system for the Eastern Seaboard to address movement of people and goods projected to 2040, recognize marine highways as a component of the multi-modal transportation system required to meet the future mobility needs in the Corridor. Most recently, the Coalition convened, via webcast, more than 60 participants, representing various Coalition member agencies and stakeholders to discuss the above-referenced proposed rule. During this activity, clear interest and support for MARAD's efforts to facilitate and establish America's Marine Highway system was specifically voiced and/or in evidence. There were, however, several areas noted where clarification or consideration should be undertaken by MARAD in execution of a final rule. These include:

- § 393.1, states: "The Marine Highway Corridors will serve as extensions of the surface transportation system and consist of the navigable, coastal, inland and intracoastal waters of the United States, to support the movement of passengers and cargo between the U. S. ports, or between U.S ports and unloaded either at a port in Canada located in the Great Lakes Saint Lawrence Seaway system; or loaded at a port in Canada located in the Great Lakes Seaway system and unloaded at a port in the United States, relieving landside congestion".
 - Our members were not in consensus as to whether they saw the language with respect to the geographic designation limitations currently in place as a barrier to a robust marine highway system in the Corridor or not. Discussions with our stakeholders, both in preparing these comments and in a port summit we held last year, however, recognize that the Eastern Seaboard region's surface transportation system is intrinsically linked over a variety of land and water borders that support a significant national and international trade corridor. Transportation linkages emanating from international water gateways to landside and across international landside borders create demand on already constrained highway and rail systems. As international trade and logistics patterns continue to evolve, including with the potential for shifting in trade patterns due to the planned expansions of the Panama and Suez Canals, more demand may be placed on the surface transportation system along the Eastern Seaboard. USDOT/MARAD will need to assess these changes as they may unfold to assess whether the Marine Highway system, as currently defined will be poised to "serve as extensions of the surface transportation system" to meet future logistics trends and trade patterns. To be an integral modal

option within the transportation system in the Corridor, America's Marine Highway must be able to absorb changes that may occur. Otherwise, increased flows will likely default to already constrained and/or unprepared landside transportation systems, in this corridor and others.

- §393.2 (Definitions) indicates that an entity that recommends a Corridor for designation as a Marine Highway must be public entities, including but not limited to, Metropolitan Planning Organizations, State governments (including Departments of Transportations) and port authorities. We would request that MARAD construe this definition broadly so as to allow for entities such as the I-95 Corridor Coalition to submit application for designation of Marine Highway Corridors, particularly as may apply to this over-arching corridor-wide region. We applaud the intention of the Department/MARAD to utilize the Corridors of the Future program as a model for the Marine Highway Program as a good step in building on prior efforts of the Department that have recognized the importance that some major geographic Corridors play in the nation's transportation system and economy.
- §393.3 does not articulate how the Department/MARAD will handle Marine Highway Corridor (or Project) designations when multiple or overlapping and/or competing applications are filed and how they will address coordination of these requests. Will MARAD recommend that the Secretary of Transportation designate all the corridors separately or combine them into a single corridor? Will there be "overlapping" corridors? How does MARAD see the role of multi-state coalitions such as the I-95 Corridor Coalition in assisting with such issues? We would suggest that while these multi-state organizations such as the Coalition should not be the selector of "winners/losers" for designations of short sea shipping routes and/or projects, they could provide a forum (resources permitting) to assist MARAD to convene overlapping parties and/or jurisdictions to discuss how to potentially coordinate such requests.
- §393.397(7) (d) indicate that the Department of Transportation will coordinate with Corridor sponsors to identify the most appropriate actions to support the Corridors. The Department of Transportation, including MARAD, recognize the issues agencies, including their own, have faced with the availability, cost and accuracy of data that is available for assessing transportation projects, particularly with respect to the type/level of data needed for realistic cost-benefit assessments. In assessing viability of freight project investments the process is particularly complicated by the need for data elements such as commodity flow data – a data source that can be elusive and/or cost prohibitive for many agencies to obtain. To that end, we encourage MARAD and the Department, to continue to collect and disseminate data to public agencies to assist them in their examination of marine highway modal options (projects), including more robust freight flow/commodity flow data.

- §393.4 Marine Highway Projects. While we understand MARAD is not currently seeking project applications, how will the Department/MARAD establish (or collect inputs to establish) the criteria for performance metrics to use in the evaluation of applications and selection of final projects for funding? Is there a plan for on-going performance monitoring to ensure that selected projects advance the goal of America's Marine Highway initiative and who will establish those metrics? How will the Department/MARAD adjust the "dashboards" in performance metrics to account for differences in regions of the country?
- §393.4 (3) discusses coordination with project sponsors to promote the services with public and private sector entities and coordination with respect to identifying resources. While it may be straightforward to assess a project with origin and destination locations with stakeholder and potential costs/benefits, it is unclear how MARAD will look to address multiple agencies and complexities, such as in the I-95 Corridor, where, for example, a 200 or 300 mile marine highway project alone could easily include multiple states. Our discussions with Coalition stakeholders held the general consensus that the Department/MARAD may not fully recognize all of the issues that might arise when a project originates in Point A and ends at Point G crosses multiple states or jurisdictions. Private sector stakeholders have expressed concerns regarding their perception that they will have to go to multiple agencies to seek support for a project, while public agencies have expressed concern as to how to address requests that may involve any number of jurisdictions (particularly with respect to showing cost-benefit, congestion and air quality reductions, etc.). Marine Highway Projects that cross multiple agencies/jurisdictions can raise issues from how to assess any number of competing/similar projects, to how to address issues such as lack of data and or staff to review, to their individual regulatory processes for procurement of solicited and/or unsolicited projects. This may be an area where organizations such as the Coalition and related entities such as North Atlantic Ports Association, Council of State Governors, and AASHTO might be enlisted to support the Department/MARAD on national or regional issue resolution.
- Research will be an important activity to support the development and "launch" of America's Marine Highway system. We would encourage the Department/MARAD to identify research funds to support examination of issues related to short sea shipping and implementation of a marine highway system. To the extent that organizations such as the Coalition might be positioned to assist MARAD, particularly in addressing research issues that may be germane to the particularly region, we would strongly urge MARAD to outreach and seek to leverage funding and activities.
- USDOT/MARAD has already undertaken significant efforts to identify issues/regulations that may be impediments to implementation of a robust marine highway system. We encourage continued efforts to reduce, resolve or remove such impediments and stand ready, as a Coalition of diverse stakeholders, to assist where may be applicable.

- USDOT/MARAD must look to create inducements/incentives for transportation users or system managers and/or the private sector (shippers, truckers, etc.) to better consider the Marine Highway system as a viable mode. This may include developing or leveraging tax credit and/or subsidy programs (i.e. reduced fuel use/alternative fuels, environmental savings etc.). In addition, as with other surface transportation programs, America's Marine Highway system will require significant public and private financial investment in order to be deployed. Significant dialogue and planning is underway by USDOT, state and local transportation entities (DOTs, MPOs) and among and between these entities and the private sector as to how to finance transportation programs and major projects through innovative approaches and/or how to best apply current and future available funding sources. With the potential to have significant public benefit (reduced congestion, environmental, energy use etc.), America's Marine Highway system and potential activities and projects under it can have regional and national significance. "Waterside" must be actively engaged in dialogues on surface transportation funding, including exploring innovative funding sources/approaches. We encourage MARAD to be active at those "tables" to represent America's Marine Highway potential so that it may become an integral and integrated transportation modal option.