Petitions

During April and May 1995, the FHWA received letters from several companies and industry groups petitioning for an extension of the effective date of the final rule. Among those requesting an extension were APL Land Transport Services, Inc.; the European Shippers' Councils; "K" Line America, Inc.; the Intermodal Safe Container Coalition (Coalition); the National Industrial Transportation League; the Steamship Association of Southern California; and, Warren & Associates, a law firm representing two freight conferences.

On May 16, 1995 (60 FR 26001), the FHWA administratively extended the June 27, 1995, effective date until September 27, 1995, to allow the agency sufficient time to consider public comment on whether a further extension was warranted. On May 25, 1995 (60 FR 27700), the FHWA requested comments on whether an extension of the effective date of the final rule beyond September 27, 1995, was necessary. As a part of the second publication, the FHWA requested comments on a petition filed by the American Trucking Associations, Inc. (ATA) to exempt three types of motor carrier operations from the rule.

General Discussion of the Comments

Forty-six comments were received in response to the May 25, 1995, publication. Of these, twenty-two were from companies connected with intermodal transportation, nineteen from industry associations, two from individuals, and one each from a safety organization, a public association, and a port.

Comments Regarding Effective Date

Three parties supported a further extension, but recommended no specific effective date. One party recommended an effective date one year after publication of the final determination of the petitions. Seven parties supported a January 1, 1996, effective date. Seventeen parties supported a May 1, 1996, effective date. One party supported an effective date in the spring of 1996. Five parties supported a June 1, 1996, effective date. One party supported a September 1, 1996, effective date. Of the parties who supported a specific date, three stated that an additional extension may be necessary. Two parties opposed a further extension.

Electronic Data Interchange

The intermodal transportation industry relies heavily on electronic data interchange (EDI). In order to

forward certifications by EDI, the intermodal transportation industry, in particular rail and water carriers, need to complete the following steps: The development of standards; preliminary analysis and design; computer programming; field testing and coordination; training; and final computer programming. The Union Pacific System and the Coalition commented that the American National Standards Institute and the Intermodal Association of North America have incorporated the necessary changes in their EDI Standard 3050 to accommodate a certification. The Coalition commented that EDI standard 3050 will be available in July, 1995, but Union Pacific and the Coalition stated that this standard will not become effective for the railroad industry until September 1, 1995. Union Pacific and the Association of American Railroads (AAR) explained further that railroads must be able to receive information via this standard by this date, but are not required to be able to send information via this standard until September 1, 1996. The Coalition and the AAR stated that one year from the effective date of a new standard is normally allowed for full implementation because of the complexity of the process. The Coalition explained that any company using a standard previous to EDI standard 3050 must modify the previous standard to accommodate a certification. Burlington Northern Railroad commented that programming the new or modified EDI standard will take until May, 1996 and that testing the standard and assisting their customers in the transition to the standard will take until September, 1996.

Based on the information submitted by the commenters, the FHWA has determined that a further extension of the effective date of the final rule is warranted. The FHWA extends the effective date of the final rule until September 1, 1996 to allow the intermodal transportation industry sufficient time to complete the necessary steps to achieve compliance with the final rule through the use of EDI.

Education

Several commenters to the May 25, 1995, publication asserted that a further extension of the effective date is necessary to provide sufficient time to educate affected parties in their responsibilities. Some commenters stated that there is a widespread lack of knowledge of the Act and the implementation of regulations outside the United States and expressed concern about the difficult task of educating

foreign entities. Some commenters also made suggestions about the FHWA's educational efforts. Several stressed that the agency should make educational materials available prior to the effective date. The FHWA agrees that additional time is needed to educate affected domestic and foreign entities in order to avoid large disruptions in trade and commerce which may result from inadvertent failures to comply with the rule. The extension of the effective date until September 1, 1996, will enable the FHWA and cooperating entities to distribute educational materials and will also provide the intermodal transportation industry additional time to familiarize appropriate parties with their responsibilities.

Educational pamphlets, in English, which provide an overview of the final rule are now available for distribution. Individuals and companies interested in obtaining the pamphlet should contact the local FHWA Office of Motor Carriers in their area. The pamphlet will also be available in German, French, Spanish, Japanese, and Mandarin Chinese in the near future. Pamphlets will be provided to various associations for domestic and international distribution. In addition, the Department of State will assist the FHWA with the international distribution of the pamphlets. The FHWA will also request the assistance of various embassies with this task.

Petition for Exemptions by the American Trucking Associations, Inc.

On April 7, 1995, the ATA filed a petition to exempt three types of motor carrier operations from the final rule. In response to the May 25, 1995, publication, the ATA and the National Industrial Transportation League (NITL) modified the third exemption requested and stated that they would also submit by August 1, 1995, a joint petition requesting further changes to the rule. In view of these developments, the FHWA will defer until a later time any discussion of the ATA and ATA/NITL petitions, as well as the comments already submitted on the ATA's petition for three exemptions.

Rulemaking Analyses and Notices

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The FHWA has previously determined that the final rule implementing the Intermodal Safe Container Transportation Act of 1992 is a significant regulatory action within the meaning of Executive Order 12866 and significant under Department of Transportation regulatory policies and