

(you should use registered or certified mail to establish the date) a written notice of appeal to the HHS Departmental Appeals Board, 200 Independence Avenue, S.W., Washington, D.C. 20201. You shall attach to the notice a copy of this decision and note that you intend an appeal. The appeal must clearly identify the issue(s) in dispute and contain a statement of the applicant's position on such issue(s) along with pertinent facts and reasons in support of the position. We are enclosing a copy of 45 CFR part 1336 which governs the conduct of appeals under § 810(b). For additional information on the appeals process see 45 CFR 1336.35. (Statutory authority: Sections 810(b) of the Native American Programs Act of 1974, as amended, 42 U.S.C. 2991h(b).)

§ 1336.35 Appeal of ineligibility.

The following steps apply when seeking an appeal on a finding of ineligibility for funding:

(a) An applicant, which has had its application rejected either because it has been found ineligible or because the activities it proposes are ineligible for funding by the Commissioner of ANA, may appeal the Commissioner's ruling to the HHS Departmental Appeals Board, in writing, within 30 days following receipt of ineligibility notification.

(b) The appeal must clearly identify the issue(s) in dispute and contain a statement of the applicant's position on such issue(s) along with pertinent facts and reasons in support of the position.

(c) Upon receipt of appeal for reconsideration of a rejected application or activities proposed by an applicant, the Departmental Appeals Board will notify the applicant by certified mail that the appeal has been received.

(d) The applicant's request for reconsideration will be reviewed by the Departmental Appeals Board in accordance with 45 CFR part 16, except as otherwise provided in this part.

(e) The Commissioner shall have 45 days to respond to the applicant's submission under paragraph (a) of this section.

(f) The applicant shall have 20 days to respond to the Commissioner's submission and the parties may be requested to submit additional information within a specified time period before closing the record in the appeal.

(g) The Departmental Appeals Board will review the record in the appeal and provide a final written decision within 30 days following the closing of the record, unless the Board determines for good reason that a decision cannot be

issued within this time period and so notifies the parties.

(h) If the Departmental Appeals Board determines that the applicant is eligible or that the activities proposed by the applicant are eligible for funding, such eligibility shall not be effective until the next cycle of grant proposals are considered by the Administration for Native Americans. (Statutory authority: Sections 810(b) of the Native American Programs Act of 1974, as amended, 42 U.S.C. 2991h(b).)

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DEPARTMENT OF TRANSPORTATION

46 CFR Part 153

Coast Guard

CFR Correction

In title 46 of the Code of Federal Regulations, parts 140 to 155, revised as of October 1, 1995, on page 171, § 153.1046 was inadvertently omitted. The omitted text should read as follows:

§ 153.1046 Sulfuric acid.

No person may liquefy frozen or congealed sulfuric acid other than by external tank heating coils.

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Federal Highway Administration

49 CFR Part 390

[FHWA Docket No. MC-93-17]

RIN 2125-AD14

Federal Motor Carrier Safety Regulations; Intermodal Transportation

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice; extension of effective date.

SUMMARY: The FHWA announces the extension of the effective date of its final rule, published on December 29, 1994, implementing provisions of the Intermodal Safe Container Transportation Act of 1992. The rule was scheduled to take effect on September 1, 1996, but the FHWA believes that further extension of the effective date until January 2, 1997, is appropriate based on the inability, to date, of the educational and informational outreach program undertaken by the FHWA to reach many foreign shippers; a request from several Senators to delay the effective date of

this rule pending consideration of legislation to amend the Act; and two petitions received earlier by the FHWA for exemptions and amendments to the rule, which are currently outstanding.

DATES: The effective date of the final rule published on December 29, 1994, at 59 FR 67544 has been extended to January 2, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Peter C. Chandler, Office of Motor Carrier Research and Standards, (202) 366-5763; or Mr. Charles E. Medalen, Office of the Chief Counsel, (202) 366-1354, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: On December 29, 1994, the FHWA published a final rule (59 FR 67544) which implemented the Intermodal Safe Container Transportation Act of 1992 (the Act) (Pub. L. 102-548, 106 Stat. 3646, partly codified at 49 U.S.C. 5901-5907 (formerly 49 U.S.C. 501 and 508)). On August 10, 1995 (60 FR 40761), the FHWA extended the rule's effective date until September 1, 1996, to allow the intermodal transportation industry sufficient time to comply by means of electronic data interchange, and to allow the FHWA, the intermodal transportation industry, and other parties enough time to inform affected domestic and foreign entities of their responsibilities. In April and August of 1995, the FHWA received two petitions for exemptions and amendments to the rule. The FHWA delayed the international distribution of pamphlets about the rule and other related educational projects until resolution of the petitions. On March 29, 1996, the petitioners along with an industry coalition requested that the FHWA delay its decision on the petitions and later notified the agency that they would seek legislative action to amend the Act. On July 16, 1996, a bill to amend the Act was introduced by the Chairman of the Senate Committee on Commerce, Science, and Transportation with co-sponsorship of the Chairman and ranking minority member of the Subcommittee on Surface Transportation and Merchant Marine. The bill (S. 1957) would raise the jurisdictional weight threshold from 4,536 kilograms (10,000 pounds) to 13,154 kilograms (29,000 pounds); reduce or eliminate paperwork burdens; provide clarification concerning applicability, requirements, and terminology; and establish additional liabilities. On July 23, 1996, the

sponsors of S. 1957 sent a letter to the Secretary of Transportation requesting that the rule's September 1, 1996, effective date be extended. The Senators expressed concern that implementation as currently planned could have devastating consequences on intermodal transportation including delays and severe congestion at ports.

The FHWA believes a further extension is appropriate because the two petitions before the agency are not resolved, a significant number of foreign entities are not familiar with their responsibilities, and implementation of

the rule prior to possible enactment of S. 1957 could disrupt both interstate and foreign commerce. In the event that the rule became effective on September 1 and S. 1957 later became law, the rule would have to be suspended once again until it could be amended in accordance with the new law. In view of the international reach of the Act and the difficulty of explaining United States laws and regulations to foreign shippers and their intermediaries, the FHWA has determined that a further extension of the rule's effective date is warranted in

order to avoid the risk of confusion and disruption that would result from frequent regulatory changes.

The FHWA is therefore extending the effective date of the final rule until January 2, 1997.

Authority: 49 U.S.C. 5901–5907, 31132, 31133, 31136, 31502, and 31504; 49 CFR 1.48.

Issued on: August 8, 1996.

Rodney E. Slater,

Federal Highway Administrator.

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