

competitiveness, encourage new technologies and emerging economic sectors, increase the participation of small- and medium-sized businesses in trade, and support the development of efficient production and supply chains that include U.S. firms in order to encourage firms to invest and produce in the United States. The TPSC Chair invites comments regarding how Malaysia's participation in the negotiations might affect these new approaches. The TPSC Chair also invites comments on the impact of Malaysia's participation in the negotiations on other trade-related priorities in this regional agreement, including environmental protection and conservation, transparency, workers rights and protections, development, and other issues.

USTR has already provided notice and requested comments on the scope for an environmental review of the proposed TPP trade agreement (*see* 75 FR 14470, March 25, 2010). As described above, the present notice invites comments on, among other topics, environmental issues to be addressed in the TPP negotiations to take into account Malaysia's participation in the negotiation. Further comments are also invited on the environmental review, including possible changes in the scope or other issues that should be addressed in the review. At a later date, USTR, through the TPSC, will publish notice of reviews regarding the impact of the proposed agreement on U.S. employment and labor markets. These reviews will take into account Malaysia's participation in the negotiations.

A hearing will be held on November 19, 2010, in Rooms 1, and 2, 1724 F Street, NW., Washington, DC. Persons wishing to testify at the hearing must provide written notification of their intention by November 10, 2010. The notification should include: (1) The name, address, and telephone number of the person presenting the testimony; and (2) a short (one or two paragraph) summary of the presentation, including the subject matter and, as applicable, the product(s) (with HTSUS numbers), service sector(s), or other subjects (such as investment, intellectual property and/or government procurement) to be discussed. A copy of the testimony must accompany the notification. Remarks at the hearing should be limited to no more than five minutes to allow for possible questions from the TPSC. Persons with mobility impairments who will need special assistance in gaining access to the hearing should contact the TPSC Executive Secretary.

Interested persons, including persons who participate in the hearing, may submit written comments by no later than noon, Monday, November 22, 2010.

### 3. Requirements for Submissions

Persons submitting comments must do so in English and must identify (on the first page of the submission) the "Participation of Malaysia in the Trans-Pacific Partnership Trade Negotiations." In order to ensure the timely receipt and consideration of comments, USTR strongly encourages commenters to make on-line submissions, using the <http://www.regulations.gov> Web site. Comments should be submitted under the following docket: USTR-2010-0031. To find the docket, enter the docket number in the "Enter Keyword or ID" window at the <http://www.regulations.gov> home page and click "Search." The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice by selecting "Notices" under "Document Type" on the search-results page, and click on the link entitled "Submit a Comment." (For further information on using the [www.regulations.gov](http://www.regulations.gov) Web site, please consult the resources provided on the Web site by clicking on the "Help" tab.)

The <http://www.regulations.gov> Web site provides the option of making submissions by filling in a comments field, or by attaching a document. USTR prefers submissions to be provided in an attached document. If a document is attached, it is sufficient to type "See attached" in the "Type comment & Upload File" field. USTR prefers submissions in Microsoft Word (.doc) or Adobe Acrobat (.pdf). If the submission is in an application other than those two, please indicate the name of the application in the "Comments" field.

For any comments submitted electronically containing business confidential information, the file name of the business confidential version should begin with the characters "BC". Any page containing business confidential information must be clearly marked "BUSINESS CONFIDENTIAL" on the top of that page. Filers of submissions containing business confidential information must also submit a public version of their comments. The file name of the public version should begin with the character "P". The "BC" and "P" should be followed by the name of the person or entity submitting the comments or reply comments. Filers submitting comments containing no business confidential information should name their file using the character "P", followed by the name

of the person or entity submitting the comments.

Please do not attach separate cover letters to electronic submissions; rather, include any information that might appear in a cover letter in the comments themselves. Similarly, to the extent possible, please include any exhibits, annexes, or other attachments in the same file as the submission itself, not as separate files.

USTR strongly urges submitters to file comments through [regulations.gov](http://www.regulations.gov), if at all possible. Any alternative arrangements must be made with Ms. Blue in advance of transmitting a comment. Ms. Blue should be contacted at (202) 395-3475. General information concerning USTR is available at <http://www.ustr.gov>.

**Carmen Suro-Bredie,**

*Chair, Trade Policy Staff Committee.*

[FR Doc. 2010-26332 Filed 10-19-10; 8:45 am]

BILLING CODE 3190-W1-P

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2009-0271]

#### Identification of Interstate Motor Vehicles: New York City, Cook County, and New Jersey Tax Identification Requirements; Petition for Determination

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice; Grant of petition for determination.

**SUMMARY:** The FMCSA grants three petitions submitted by the American Trucking Associations (ATA) requesting determinations that the commercial motor vehicle (CMV) identification requirements imposed by the State of New Jersey, New York City, and Cook County, Illinois are preempted by Federal law. The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) prohibits States and their political subdivisions from requiring motor carriers to display in or on CMVs any form of identification other than forms required by the Secretary of Transportation, with certain exceptions. FMCSA grants ATA's requests because the three credential display requirements do not qualify for the relevant statutory exception for State display of credentials and are preempted by Federal statute.

**DATES:** This decision is effective October 20, 2010.

**FOR FURTHER INFORMATION CONTACT:**  
Genevieve D. Sapir, Office of the Chief Counsel, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590, (202) 366-7056; e-mail [Genevieve.Sapir@dot.gov](mailto:Genevieve.Sapir@dot.gov).

**SUPPLEMENTARY INFORMATION:**

**Background**

New Jersey's tax code requires all motor carriers hauling, transporting, or delivering fuel to display a Motor Fuel Transport License Plate and annual Transport License Certificate. This requirement applies to all motor carriers hauling, transporting, or delivering fuel in New Jersey regardless of their State of domicile or registration. New Jersey Statutes Annotated § 54:39-41 and § 54:39-53. New York City's Administrative Code, § 11-809, requires CMVs used principally in New York City or in connection with a business carried on within New York City to pay a tax and display a stamp. The requirement appears to apply whether or not the CMV is registered to an address in New York City. Cook County's Code of Ordinances requires motor vehicle owners residing within the unincorporated area of Cook County to: (a) Display a window sticker showing payment of fees; and (b) paint business vehicle identification information on their vehicles. Article XIV of chapter 74 of the Cook County Code of Ordinances is referred to as the "Cook County Wheel Tax on Motor Vehicles Ordinance."

Section 4306(a) of SAFETEA-LU, codified at 49 U.S.C. 14506(a), prohibits States from requiring motor carriers to display in or on CMVs any form of identification other than forms required by the Secretary of Transportation. Section 14506(b), however, establishes several exceptions to this prohibition:

(b) Exception.—Notwithstanding subsection (a), a State may continue to require display of credentials that are required—

(1) Under the International Registration Plan under section 31704 [of title 49, United States Code];

(2) Under the International Fuel Tax Agreement under section 31705 [of title 49, United States Code];

(3) Under a State law regarding motor vehicle license plates or other displays that the Secretary determines are appropriate;

(4) In connection with Federal requirements for hazardous materials transportation under section 5103 [of title 49, United States Code]; or

(5) In connection with the Federal vehicle inspection standards under section 31136 [of title 49, United States Code].

The exception relevant to ATA's petitions is § 14506(b)(3), which

provides that "a State may continue to require display of credentials that are required \* \* \* under a State law regarding motor vehicle license plates or other displays that the Secretary determines are appropriate." The Secretary's authority is delegated to FMCSA by 49 CFR 1.73(a)(7).

ATA's petitions seeking determinations, along with the applicable statutes, regulations, and ordinances, are available for inspection in the docket established for this notice.

**Public Comments**

On October 19, 2009, FMCSA published a notice in the **Federal Register**, "Identification of Interstate Motor Vehicles: New York City, Cook County and New Jersey Tax Identification Requirements; Petition for Determination" (74 FR 53578), requesting public comment on ATA's petitions. In formulating its decision, FMCSA considered all of the comments received in response to the Agency's notice.

FMCSA received 11 comments, of which 7 were from trade associations, 3 from motor carriers, and 1 from an individual. All commenters supported preemption.

ATA and the Distribution and LTL Carriers Association commented that the credential display requirements are related to revenue raising and that they do not fall under any of the § 14506(b) exceptions. Con-way Inc. commented that the credential display requirements are impediments to interstate commerce. United Parcel Service, Inc. (UPS) commented that, as an interstate carrier operating in many States, it finds credential display requirements to be burdensome. UPS further commented that, although the vehicles in its fleet may be in compliance with State or local tax, fee, or permit requirements, if its drivers cannot display the appropriate credential on demand, the company can nonetheless receive a citation. Martin Storage Co. also commented that the paperwork associated with State and local credential display requirements is burdensome. The Truckload Carriers Association and the Truck Renting and Leasing Association commented that the credential display requirements are not eligible for the § 14506(b)(3) exception because they are not related to vehicle registration. The National Private Truck Council observed that none of the affected jurisdictions submitted comments to justify the credential display requirements.

In addition, FMCSA received a letter from the Office of the State's Attorney of Cook County acknowledging that its

credential display requirement is preempted. This letter is also available for review in the docket.

**FMCSA Decision**

New Jersey's tax credential display requirement is a State-mandated form of identification preempted by 49 U.S.C. 14506(a) and does not qualify for the exception at § 14506(b)(3). First, it is not an identification requirement related to motor vehicle license plates. Even though the credential itself is in the form of a license plate, its purpose does not relate to State licensing of vehicles. Rather, it appears to identify those motor carriers, registered in New Jersey or elsewhere, that have paid State taxes for hauling, transporting, or delivering motor fuel. Second, New Jersey failed to articulate any justification for FMCSA to exercise its delegated discretion to approve the display.

New York City's and Cook County's display requirements are also preempted by 49 U.S.C. 14506(a) because they are identification requirements mandated by political subdivisions of a State. However, the assessment of whether a § 14506(b) exception applies to these display requirements requires a slightly different analysis. The prohibition in § 14506(a) specifically applies to States, political subdivisions of States, interstate agencies and other political agencies of two or more States, whereas the exceptions in § 14506(b) apply to States without mention of political subdivisions or agencies. Consequently, the first question the Agency must answer is whether a § 14506(b) exception can apply to a political subdivision of a State.

Two possible interpretations exist. One is that Congress intended for States, political subdivisions of States, interstate agencies and other political agencies of two or more States to be subject to the general prohibition on display of identification requirements, but only intended for States (and not the other subdivisions and agencies) to be eligible for the exceptions in § 14506(b). The second is that Congress intended the States, as well as political subdivisions and agencies, to be eligible for the exceptions and that its omission of these other entities from § 14506(b) is not evidence of its intent to exclude them from being eligible for the exception. FMCSA believes that the latter is the correct interpretation.

In *City of Columbus v. Ours Garage & Wrecker Service*, 536 U.S. 424 (2002), the Supreme Court considered a provision with nearly identical language to § 14506 and determined that Congress' exclusion of political

subdivisions in the exception was not a sufficiently clear and manifest indication of its intent to preempt local regulation. In reaching this conclusion, the Court made two points that guide our analysis and conclusions here. First, consistent with existing precedent, a political subdivision may exercise whatever portion of State power the State chooses to delegate under its own constitution and laws. *Id.* at 428. Second, if the exception were interpreted to apply only to States, political subdivisions would be preempted from enforcing laws legitimately enacted by the State pursuant to the exception. The Court found it unlikely that Congress would preserve State power to enact rules but bar routine enforcement through local instrumentalities. *Id.* at 435.

The Agency concludes that the exceptions in § 14506(b) can apply to New York City's and Cook County's credential display requirements, if they meet the statutory criteria. The only exception relevant to ATA's petition is found in § 14506(b)(3); however, no evidence supports the application of this exception to New York City's and Cook County's credential display requirements. These display requirements are unrelated to State vehicle licensing requirements, and neither jurisdiction articulated any justification for the Agency to exercise its delegated discretion to approve the display. In fact, the only jurisdiction to respond to the Agency, Cook County, conceded that its credential display requirements are preempted by Federal law.

In consideration of the above, FMCSA grants the petitions submitted by ATA. New York City, New Jersey, and Cook County are preempted from imposing and may no longer enforce their credential display requirements.

Issued on: October 4, 2010.

**Anne S. Ferro,**  
Administrator.

[FR Doc. 2010-26202 Filed 10-19-10; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

[Summary Notice No. PE-2010-45]

#### Petition for Exemption; Summary of Petition Received

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of petition for exemption received.

**SUMMARY:** This notice contains a summary of a petition seeking relief from specified requirements of 14 CFR Part 43. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

**DATES:** Comments on this petition must identify the petition docket number involved and must be received on or before November 9, 2010.

**ADDRESSES:** You may send comments identified by Docket Number FAA-2010-0544 using any of the following methods:

- **Government-wide rulemaking Web site:** Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically.
- **Mail:** Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12-140, Washington, DC 20590.

- **Fax:** Fax comments to the Docket Management Facility at 202-493-2251.

- **Hand Delivery:** Bring comments to the Docket Management Facility in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**Privacy:** We will post all comments we receive, without change, to <http://www.regulations.gov>, including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477-78).

**Docket:** To read background documents or comments received, go to <http://www.regulations.gov> at any time or to the Docket Management Facility in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Katherine Haley, Office of Rulemaking, ARM-203, Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC 20591; telephone (202) 493-5708, facsimile

(202) 267-5075; e-mail [Katherine.L.Haley@faa.gov](mailto:Katherine.L.Haley@faa.gov).

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on October 15, 2010.

**Pamela Hamilton-Powell,**  
Director, Office of Rulemaking.

#### Petition for Exemption

**Docket No.:** FAA-2010-0544.  
**Petitioner:** Florida Fish and Wildlife Conservation Commission.

**Sections of 14 CFR Affected:** Part 43 and § 91.205(h).

**Description of Relief Sought:** Florida Fish and Wildlife

Conservation Commission seeks relief for a period of up to 5 years to allow sufficient time for it to acquire the necessary funding and complete modifications to bring its aircraft into compliance with the requirements for use of Night Vision Goggles.

[FR Doc. 2010-26346 Filed 10-19-10; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF THE TREASURY

### Office of Foreign Assets Control

#### Additional Designations, Foreign Narcotics Kingpin Designation Act

**AGENCY:** Office of Foreign Assets Control, Treasury.

**ACTION:** Notice.

**SUMMARY:** The Treasury Department's Office of Foreign Assets Control ("OFAC") is publishing the names of five entities whose property and interests in property have been blocked pending investigation pursuant to the Foreign Narcotics Kingpin Designation Act ("Kingpin Act") (21 U.S.C. 1901-1908, 8 U.S.C. 1182).

**DATES:** The blocking pending investigation by the Director of OFAC of the five entities identified in this notice pursuant to section 806(a)(2) of the Kingpin Act is effective on October 13, 2010.

#### FOR FURTHER INFORMATION CONTACT:

Assistant Director, Compliance Outreach & Implementation, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220, *tel.*: 202/622-2490.

#### SUPPLEMENTARY INFORMATION:

#### Electronic and Facsimile Availability

This document and additional information concerning OFAC are available on OFAC's Web site (<http://www.treas.gov/ofac>) or via facsimile through a 24-hour fax-on-demand service, *tel.*: (202) 622-0077.