

DATES: National implementation of the Off-site Safety Audit Procedures will begin in the summer of 2015 and continue over the next 36 months.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph Bennett, Federal Motor Carrier Safety Administration, Compliance Division, 1200 New Jersey Avenue SE., Washington, DC 20590, Telephone 202-365-8324, EMAIL: joseph.bennett@dot.gov.

SUPPLEMENTARY INFORMATION:

Background

Prior to October 1, 2013, 49 CFR part 385 subpart D required a safety audit within 18 months after a new entrant motor carrier began operations to determine if the carrier was exercising basic safety management controls. FMCSA and its State Partners conducted all new entrant safety audits at the motor carrier's principle place of business, which was time and labor intensive. The timeframe for conducting these safety audits was further limited by Section 32102 of the Moving Ahead for Progress in the 21st Century (MAP-21) [Pub. L. 112-141, 126 Stat. 405 (July 6, 2012)], which required FMCSA to complete safety audits within 12 months for property carriers and within 120 days for motorcoach passenger carriers. MAP 21's tightened deadlines, coupled with an increase in new entrant applicants, prompted FMCSA to develop a more efficient mechanism for conducting safety audits.

On September 4, 2013, FMCSA published a notice in the **Federal Register** announcing the Operational Test (78 FR 54510). The Operational Test, which began in July 2013, allowed certain eligible new entrant motor carriers to submit compliance documentation to safety auditors either electronically, via email, or via fax. A safety auditor would then conduct the safety audit remotely, assessing the new entrant's safety performance and determining if it has adequate safety management practices pursuant to 49 CFR part 385, subpart D. New entrant carriers subject to off-site safety audits had the same regulatory requirements and privileges under 49 CFR part 385 subpart D as those carriers subject to on-site safety audits. New entrant motor carriers that transport either hazardous material or passengers were not eligible for an off-site safety audit. New entrant motor carriers with a known safety issue (*i.e.*, received an expedited action notice pursuant to 49 CFR 385.308 or had Behavior Analysis and Safety Improvement Categories (BASICS) scores above the Safety Measurement

System thresholds) were also not eligible for an off-site safety audit.

On September 9, 2014, FMCSA announced changes to the Operational Test (79 FR 53511). First, the Agency updated the IT systems so that when an automatic failure violation (as listed in 49 CFR 385.321) is identified by the Agency based on the records the motor carrier provides during the document submission process, the carrier will automatically fail the new entrant safety audit and be placed into the corrective action process. Second, the Agency extended the Operational Test through December 2014 to ensure sufficient data is available to calculate the established metrics in order to make an informed decision on any future actions.

FMCSA monitored and evaluated the effectiveness, efficiency, innovation, and flexibility of the Operational Test procedures in contrast to the current New Entrant Safety Assurance Program during and after the test using several performance metrics. Additional information about the Operational Test is available at www.regulations.gov under Docket No. FMCSA-2013-0298.

Upon conclusion of the 18-month Operational Test, FMCSA determined that the data supported the effectiveness of the off-site procedures in determining the safety fitness of eligible new entrant carriers. The off-site procedures further allowed FMCSA to better meet the obligation of conducting safety audits on all new entrant carriers within the MAP-21 timeframes. As a result, FMCSA is moving forward with the nationwide implementation of the Off-Site Safety Audit Procedures.

Results from the 18-month Operational Test showed that:

- 60 percent of new entrant carriers were eligible for, and received, off-site safety audits;
- The number of safety audits completed within the test states increased by 4 percent;
- Off-site safety audits take 33 percent less time to conduct than on-site safety audits;
- Off-site safety audits saved 58 percent on travel costs;
- Carriers identified for the less resource-intensive off-site safety audit were performing well during subsequent roadside inspections; and,
- Post-safety audit carriers receiving off-site safety audits, on average, have equivalent or fewer 49 CFR 385.308 expedited actions and violation rates than carriers receiving an on-site safety audit.

Based on the success of the Operational Test, FMCSA will begin national implementation of the Off-site Safety Audit Procedures for eligible new

entrant motor carriers under the New Entrant Safety Assurance Program. Starting in the summer of 2015, FMCSA will phase in use of the off-site procedures as additional State Partners are able to be trained on the process, policy, and information technology system used in conducting an off-site safety audit. In the first phase, FMCSA will implement use of off-site new entrant safety audits in the following 11 States: Georgia, Maine, Michigan, Minnesota, North Carolina, North Dakota, Oregon, South Carolina, South Dakota, Vermont, Wyoming, and Washington, DC.

Over the course of the next 36 months, FMCSA will continue to expand the program to FMCSA State Partners, and new entrant motor carriers domiciled in other states. FMCSA will provide a schedule on its public Web site at <http://www.fmcsa.dot.gov/safety/new-entrant-safety-assurance-program> for the additional States implementing the Off-site Safety Audit Procedures. FMCSA anticipates completion of the nationwide expansion of the Off-Site Safety Audit Procedures by the summer of 2018. As the program expands eligible new entrant applicants will receive a written or verbal notice from FMCSA of their eligibility for the off-site safety audit with instructions on the Off-Site Safety Audit Procedures.

Issued on: June 22, 2015.

T.F. Scott Darling, III,
Chief Counsel.

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2007-28043]

Hours of Service of Drivers; Renewal and Expansion of American Pyrotechnics Association Exemption From the 14-Hour Rule During Independence Day Celebrations

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

ACTION: Notice of final disposition; granting of application for exemption.

SUMMARY: FMCSA announces the granting of an exemption for 51 member-companies of the American Pyrotechnics Association (APA) from FMCSA's regulation prohibiting drivers of commercial motor vehicles (CMVs) from driving after the 14th hour after coming on duty. FMCSA renews the exemption for 46 APA member

companies and grants 5 additional carriers coverage under the exemption, which is effective from June 28–July 8, 2015, and June 28–July 8, 2016, inclusive. The original application covered 55 carriers, but FMCSA has declined to exempt 3 of them, and 1 carrier is out of business, leaving 51 approved carriers. Drivers who operate these CMVs in conjunction with staging fireworks shows celebrating Independence Day will be allowed to exclude off-duty and sleeper-berth time of any length from the calculation of the 14-hour driving window otherwise applicable. These drivers remain subject to the 60- and 70-hour limits; they may also drive no more than 11 hours in the 14-hour period after coming on duty, as extended by any off-duty or sleeper-berth time in accordance with this exception. FMCSA believes that the terms and conditions of the exemption will likely enable APA member motor carriers to maintain a level of safety that is equivalent to, or greater than, the level of safety that would be obtained by complying with the regulation.

DATES: This exemption is effective from June 28, 2015 (12:01 a.m.) through July 8, 2015 (11:59 p.m.) and from June 28, 2016 (12:01 a.m.) through July 8, 2016 (11:59 p.m.).

FOR FURTHER INFORMATION CONTACT: Mrs. Pearl Robinson, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; Telephone: 202–366–4325, Email: MCPSD@dot.gov, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

Docket: For access to the docket to read background documents or comments submitted to the notice requesting public comments on the exemption application, go to www.regulations.gov at any time or visit Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. The on-line Federal document management system is available 24 hours each day, 365 days each year. The docket number is listed at the beginning of this notice.

SUPPLEMENTARY INFORMATION:

APA Application for Exemption

The hours-of-service (HOS) rule in 49 CFR 395.3(a)(2) prohibits a property-carrying CMV driver from driving a CMV after the 14th hour after coming on duty following 10 consecutive hours off duty. Under 49 U.S.C. 31315 and 31136(e), FMCSA may grant an exemption from the HOS requirements

in 49 CFR 395.3(a)(2) for a 2-year period if it finds such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption. The procedures for requesting an exemption (including renewals) are prescribed in 49 CFR part 381.

The APA, a trade association representing the domestic fireworks industry, applied for an exemption in 2004. A copy of that application is in the docket; it describes fully the nature of the pyrotechnic operations during a typical Independence Day period. Various APA members have held 2-year exemptions during Independence Day periods from 2005 through 2014. The last exemption, for 55 of its members, expired on July 9, 2014. The renewal application covered 50 members that previously held exemptions and 5 additional member companies, but FMCSA has decided not to exempt 3 of them; and 1 carrier, Hi-Tech FX, LLC (US DOT number 1549055), is out of business; 51 carriers are being granted the exemption. A copy of the renewal request is included in the docket referenced at the beginning of this notice.

The CMV drivers employed by APA members are trained pyro technicians who hold commercial driver's licenses (CDLs) with hazardous materials (HM) endorsements. They transport fireworks and related equipment by CMVs on a demanding schedule during a brief Independence Day period, often to remote locations. After they arrive, the drivers are responsible for set-up and staging of the fireworks shows.

The APA stated that it was seeking an HOS exemption for the 2015 and 2016 Independence Day periods because compliance with the current 14-hour rule in 49 CFR 395.3(a)(2) by its members would impose a substantial economic hardship on numerous cities, towns and municipalities, as well as its member-companies. To meet the demand for fireworks shows under the current HOS rules, APA claimed that its members would be required to hire a second driver for most trips. The result would be a substantial increase in the cost of the fireworks shows—beyond the means of many of its members' customers—and many Americans would therefore be denied this important component of the Independence Day celebration. The 51 APA members within the scope of this exemption are listed in an appendix to this notice.

Method To Ensure an Equivalent or Greater Level of Safety

The APA believes that renewal of the exemption for previously exempt carriers and the granting of relief for new carriers will not adversely affect the safety of the fireworks transportation provided by these motor carriers. According to APA, its member-companies have operated under this exemption for 10 previous Independence Day periods without a reported motor carrier safety incident. Moreover, it asserts, without the extra duty-period time provided by the exemption, safety would decline because APA drivers would be unable to return to their home base or other safe location after each show. They would be forced to park the CMVs carrying HM 1.1G, 1.3G and 1.4G products in areas less secure than the motor carrier's home base. As a condition of the exemption, each motor carrier is required to notify FMCSA within 5 business days of any accident (as defined in 49 CFR 390.5) involving the operation of any CMVs while under this exemption. To date, FMCSA has received no accident notifications, nor is the Agency aware of any accidents reportable under terms of the prior APA exemptions.

APA asserted that the operational demands of this unique industry minimize the risk of CMV crashes. In the last few days before the 4th of July, these drivers transport fireworks over relatively short routes from distribution points to the site of the fireworks display, and normally do so in the early morning when traffic is light. At the site, they spend considerable time installing, wiring, and safety-checking the fireworks displays, followed by several hours off duty in the late afternoon and early evening prior to the event. During this time, the drivers are able to rest and nap, thereby reducing or eliminating the fatigue accumulated during the day. Before beginning another duty day, these drivers must take 10 consecutive hours off duty, the same as other CMV drivers. FMCSA believes that APA operations conducted under the terms and conditions of this limited exemption will likely provide a level of safety that is equivalent to the level of safety achieved without the exemption.

Public Comments

On April 7, 2015, FMCSA published notice of this renewal application, and asked for public comment (80 FR 186690). No comments were submitted.

FMCSA Decision

The FMCSA has evaluated APA’s application and the safety records of the companies to which the exemption would apply. The Agency believes that APA members will likely achieve a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption [49 CFR 381.305(a)], and grants the requested exemption to the 51 APA member-companies listed in the appendix.

FMCSA denies the exemption applications of Garden State Fireworks, Inc. (USDOT number 435878); Pyro Engineering Inc. (USDOT number 530262); and Pyro Shows, Inc. (USDOT number 456818). The denial is based on their insufficient safety management controls and the Agency’s analysis of their roadside inspections during the last 24 months. Under these circumstances, FMCSA believes it would be inappropriate at this time to grant an exemption to these three companies.

Terms and Conditions of the Exemption

Period of the Exemption

The exemption from the requirements of 49 CFR 395.3(a)(2) is effective from June 28, 2015 (12:01 a.m.) through July 8, 2015 (11:59 p.m.) and from June 28, 2016 (12:01 a.m.) through July 8, 2016 (11:59 p.m.). The exemption will expire on July 8, 2016, at 11:59 p.m. local time.

Extent of the Exemption

This exemption is restricted to the 51 motor carriers listed in the appendix and their CMV drivers. The drivers are exempt from 49 CFR 395.3(a)(2), which prohibits a driver from driving a CMV after the 14th hour after coming on duty and does not permit off-duty periods to extend the 14-hour limit. Drivers covered by this exemption may exclude off-duty and sleeper-berth time of any

length from the calculation of the 14-hour limit. However, driving time is limited to 11 hours in the 14-hour period after coming on duty, as extended by any off-duty or sleeper-berth time in accordance with this exemption. The exemption is further contingent on each driver having a minimum of 10 consecutive hours off duty prior to beginning a new duty period. The carriers and drivers must comply with all other applicable requirements of the Federal Motor Carrier Safety Regulations (49 CFR parts 350–399) and Hazardous Materials Regulations (49 CFR parts 105–180).

Other Conditions

Each carrier must maintain USDOT registration, a Hazardous Materials Safety Permit (if required), minimum levels of public liability insurance, and not be subject to any “imminent hazard” or other out-of-service (OOS) order issued by FMCSA. Each driver covered by the exemption must be in possession of the exemption document, maintain a valid CDL with required endorsements, not be subject to any OOS order or suspension of driving privileges, and meet all physical qualifications required by 49 CFR part 391.

Preemption

During the periods the exemption is in effect, no State may enforce any law or regulation that conflicts with or is inconsistent with this exemption with respect to a person or entity operating under the exemption (49 U.S.C. 31315(d)).

FMCSA Accident Notification

Exempt motor carriers must notify FMCSA within 5 business days of any accidents (as defined by 49 CFR 390.5) involving the operation of any of its CMVs while under this exemption. The

notification must include the following information:

- a. Identifier of the Exemption: “APA”
- b. Name of operating carrier and USDOT number,
- c. Date of the accident,
- d. City or town, and State, in which the accident occurred, or closest to the accident scene,
- e. Driver’s name and license number,
- f. If any, co-driver’s name and license number,
- g. Vehicle number and state license number,
- h. Number of individuals suffering physical injury,
- i. Number of fatalities,
- j. The police-reported cause of the accident,
- k. Whether the driver was cited for violation of any traffic laws, motor carrier safety regulations, and
- l. The total driving time and total on-duty time prior to the accident.

Termination

The FMCSA does not believe the motor carriers and drivers covered by this exemption will experience any deterioration of their safety record. However, should this occur, FMCSA will take all steps necessary to protect the public interest, including revocation of the exemption. The FMCSA will immediately revoke the exemption for failure to comply with its terms and conditions.

Issued on: June 23, 2015.

T.F. Scott Darling, III,
Chief Counsel.

Appendix to Notice of Application for Renewal of American Pyrotechnics Association (APA) Exemption from the 14-Hour HOS Rule During 2015 and 2016 Independence Day Celebrations for 46 Motor Carriers

Motor carrier	Street address	City, state, zip code	DOT No.
1 American Fireworks Company	7041 Darrow Road	Hudson, OH 44236	103972
2 American Fireworks Display, LLC ...	P.O. Box 980	Oxford, NY 13830	2115608
3 AM Pyrotechnics, LLC	2429 East 535th Rd	Buffalo, MO 65622	1034961
4 Atlas PyroVision Entertainment Group, Inc.	136 Old Sharon Rd	Jaffrey, NH 03452	789777
5 Central States Fireworks, Inc	18034 Kincaid Street	Athens, IL 62613	1022659
6 Colonial Fireworks Company	5225 Telegraph Road	Toledo, OH 43612	177274
7 East Coast Pyrotechnics, Inc	4652 Catawba River Rd	Catawba, SC 29704	545033
8 Entertainment Fireworks, Inc	13313 Reeder Road SW	Tenino, WA 98589	680942
9 Falcon Fireworks	3411 Courthouse Road	Guyton, GA 31312	1037954
10 Fireworks & Stage FX America	12650 Hwy 67S, Suite B	Lakeside, CA 92040	908304
11 Fireworks by Grucci, Inc	20 Pinehurst Drive	Bellport, NY 11713	324490
12 J&J Computing dba Fireworks Extravaganza.	174 Route 17 North	Rochelle Park, NJ 07662	2064141
13 Fireworks West Internationale	910 North 3200 West	Logan, UT 84321	245423
14 Gateway Fireworks Displays	P.O. Box 39327	St Louis, MO 63139	1325301
15 Great Lakes Fireworks	24805 Marine	Eastpointe, MI 48021	1011216
16 Hamburg Fireworks Display, Inc	2240 Horns Mill Road SE	Lancaster, OH	395079

Motor carrier	Street address	City, state, zip code	DOT No.
17 Hawaii Explosives & Pyrotechnics, Inc.	17-7850 N. Kulani Road	Mountain View, HI 96771	1375918
18 Hollywood Pyrotechnics, Inc	1567 Antler Point	Eagan, MN 55122	1061068
19 Homeland Fireworks, Inc	P.O. Box 7	Jamieson, OR 97909	1377525
20 Island Fireworks Co., Inc	N1597 County Rd VV	Hager City, WI 54014	414583
21 J&M Displays, Inc	18064 170th Ave	Yarmouth, IA 52660	377461
22 Lantis Fireworks, Inc	130 Sodrac Dr., Box 229	N. Sioux City, SD 57049	534052
23 Legion Fireworks Co., Inc	10 Legion Lane	Wappingers Falls, NY 12590	554391
24 Miand Inc. dba Planet Productions (Mad Bomber).	P.O. Box 294, 3999 Hupp Road R31	Kingsbury, IN 46345	777176
25 Martin & Ware Inc. dba Pyro City Maine & Central Maine Pyrotechnics.	P.P. Box 322	Hallowell, ME 04347	734974
26 Melrose Pyrotechnics, Inc	1 Kingsbury Industrial Park	Kingsbury, IN 46345	434586
27 Precocious Pyrotechnics, Inc	4420-278th Ave NW	Belgrade, MN 56312	435931
28 Pyro Spectacuars, Inc	3196 N Locust Ave	Rialto, CA 92376	029329
29 Pyro Spectaculars North, Inc	5301 Lang Avenue	McClellan, CA 95652	1671438
30 Pyrotechnic Display, Inc	8450 W. St. Francis Rd	Frankfort, IL 60423	1929883
31 Pyrotecnico (S. Vitale Pyrotechnic Industries, Inc.).	302 Wilson Rd	New Castle, PA 16105	526749
32 Pyrotecnico, LLC	60 West Ct	Mandeville, LA 70471	548303
33 Pyrotecnico FX	6965 Speedway Blvd. Suite 115	Las Vegas, NV 89115	1610728
34 Rainbow Fireworks, Inc	76 Plum Ave	Inman, KS 67546	1139643
35 RES Specialty Pyrotechnics	21595 286th St	Belle Plaine, MN 56011	523981
36 Rozzi's Famous Fireworks, Inc	11605 North Lebanon Rd	Loveland, OH 45140	0483686
37 Skyworks, Ltd	13513 W. Carrier Rd	Carrier, OK 73727	1421047
38 Spielbauer Fireworks Co, Inc	220 Roselawn Blvd	Green Bay, WI 54301	046479
39 Starfire Corporation	682 Cole Road	Carrolltown, PA 15722	554645
40 Vermont Fireworks Co., Inc./ Northstar Fireworks Co., Inc.	2235 Vermont Route 14 South	East Montpelier, VT 05651	310632
41 Western Display Fireworks, Ltd	10946 S. New Era Rd	Canby, OR 97013	498941
42 Western Enterprises, Inc	P.O. Box 160	Carrier, OK 73727	203517
43 Western Fireworks, Inc	14592 Ottaway Road NE	Aurora, OR 97002	838585
44 Wolverine Fireworks Display, Inc	205 W Seidlers	Kawkawlin, MI	376857
45 Young Explosives Corp	P.O. Box 18653	Rochester, NY 14618	450304
46 Zambelli Fireworks MFG, Co., Inc ...	P.O. Box 1463	New Castle, PA 16103	033167

Appendix to Renewal of Exemption for 5 Motor Carriers Not Previously Exempted

Motor carrier	Street address	City, state, zip code	DOT No.
1 Pyro Shows of Texas, Inc	6601 9 Mile Azle Rd	Fort Worth, TX 76135	2432196
2 Sorgi American Fireworks Michigan, LLC.	935 Wales Ridge Rd	Wales, MI 48027	2475727
3 Spirit of 76	6401 West Hwy 40	Columbia, MO 65202	2138948
4 USA Halloween Planet Inc. dba USA Fireworks.	7800 Record Street, Suite A	Indianapolis, IN 46226	725457
5 Arthur Rozzi Pyrotechnics	6607 Red Hawk Ct	Maineville, OH 45039	2008107

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DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Limitation on Claims Against Proposed Public Transportation Projects

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice.

SUMMARY: This notice announces final environmental actions taken by the Federal Transit Administration (FTA) for projects in the Cities of San Rafael

and Larkspur, CA, and Moline, IL. The purpose of this notice is to announce publicly the environmental decisions by FTA on the subject projects and to activate the limitation on any claims that may challenge these final environmental actions.

DATES: By this notice, FTA is advising the public of final agency actions subject to Section 139(l) of Title 23, United States Code (U.S.C.). A claim seeking judicial review of FTA actions announced herein for the listed public transportation projects will be barred unless the claim is filed on or before November 27, 2015.

FOR FURTHER INFORMATION CONTACT:

Nancy-Ellen Zusman, Assistant Chief Counsel, Office of Chief Counsel, (312) 353-2577 or Terence Plaskon, Environmental Protection Specialist, Office of Environmental Programs, (202) 366-0442. FTA is located at 1200 New Jersey Avenue SE., Washington, DC 20590. Office hours are from 9:00 a.m. to 5:30 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: Notice is hereby given that FTA has taken final agency actions by issuing certain approvals for the public transportation projects listed below. The actions on the projects, as well as the laws under which such actions were taken, are