

the Caltrans assumed, environmental responsibilities for this project pursuant to 23 U.S.C. 327. Caltrans as the assigned National Environmental Policy Act (NEPA) agency, in cooperation with the Foothill/Eastern Transportation Corridor Agency (F/ETCA), published an NOI on November 7, 2019, to prepare an EIS on a proposal for a highway improvement project in Orange County and San Diego County, California. The proposed improvements intended to address north-south regional mobility and accommodation of travel demand included the extension of the tolled State Route (SR) 241 lanes to Interstate (I) 5, the extension of Crown Valley Parkway to SR 241, new connections between Ortega Highway, Antonio Parkway, Avery Parkway, and SR-73, new general purpose lanes on I-5, new managed lanes on I-5, or combinations of these preliminary alternatives. The formal scoping period occurred beginning November 8, 2019 and ended February 10, 2020. Public scoping meetings were held on November 20, 2019 and December 4, 2019 in Mission Viejo, California, and Dana Point, California, respectively. Following the formal scoping period, review of the public and agency input received, and preliminary alternatives evaluation work, Caltrans and F/ETCA mutually agreed to discontinue project development. Therefore, the FHWA is rescinding the NOI as there is no effort underway to advance the EIS. Comments and questions concerning this action should be directed to Caltrans at the email address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: May 26, 2020.

**Rodney Whitfield,**

*Director, Financial Services, Federal Highway Administration, California Division.*

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**BILLING CODE 4910-RY-P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Motor Carrier Safety Administration**

[Docket No. FMCSA-2020-0062]

**Marking of Commercial Motor Vehicles; Application for an Exemption—Adirondack Trailways, Pine Hill Trailways, and New York Trailways**

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

**ACTION:** Notice of final disposition; grant of application for exemption.

**SUMMARY:** The Federal Motor Carrier Safety Administration (FMCSA) announces its decision to grant Adirondack Transit Lines, Inc. (dba Adirondack Trailways), Pine Hill-Kingston Bus Corp. (dba Pine Hill Trailways), and Passenger Bus Corp. (dba New York Trailways) an exemption from FMCSA's commercial motor vehicle (CMV) marking rules under certain circumstances involving the exchange of equipment and/or drivers. FMCSA has determined that the terms and conditions of the exemption likely ensure a level of safety equivalent to, or greater than, the level of safety achieved without the exemption.

**DATES:** This exemption is effective June 1, 2020 and expires May 28, 2025.

**ADDRESSES:** *Docket:* For access to the docket to read background documents or comments, go to [www.regulations.gov](http://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. To be sure someone is there to help you, please call (202) 366-9317 or (202) 366-9826 before visiting Docket Operations.

The on-line Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year.

*Privacy Act:* In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to [www.regulations.gov](http://www.regulations.gov), as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at [www.dot.gov/privacy](http://www.dot.gov/privacy).

**FOR FURTHER INFORMATION CONTACT:** Ms. La Tonya Mimms, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; Telephone: 202-366-4325. Email: [MCPSD@dot.gov](mailto:MCPSD@dot.gov). If you have

questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366-9826.

**SUPPLEMENTARY INFORMATION:**

**I. Public Participation**

*Viewing Comments and Documents*

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to [www.regulations.gov](http://www.regulations.gov) and insert the docket number, "FMCSA-2020-0062" in the "Keyword" box and click "Search." Next, click the "Open Docket Folder" button and choose the document to review. If you do not have access to the internet, you may view the docket by visiting the Docket Management Facility in Room W12-140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., E.T., Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366-9317 or (202) 366-9826 before visiting Docket Operations.

**II. Legal Basis**

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain parts of the Federal Motor Carrier Safety Regulations. FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must provide an opportunity for public comment on the request.

The Agency reviews the safety analyses and the public comments and determines whether granting the exemption would be likely to achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reason for the granting or denial, and, if granted, the specific person or class of persons receiving the exemption and the regulatory provision or provisions from which exemption is granted. The notice must specify the effective period of the exemption (up to 5 years), and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

**III. Request for Exemption**

Under 49 CFR 390.21, commercial motor vehicles must display the legal name or single trade name of the motor carrier operating the vehicle and the

USDOT identification number assigned to that motor carrier. For motor carriers operating interchanged passenger carrying vehicles, the requirements of section 390.21(b)(3) are satisfied if the vehicle is marked with a single placard, sign, or other device affixed to the right (curb) side of the vehicle on or near the front passenger door. The placard, sign, or device must display the legal name or a single trade name of the motor carrier operating the CMV and the motor carrier's USDOT number, preceded by the words "Operated by."

Adirondack Trailways, Pine Hill Trailways, and New York Trailways combined operate approximately 130 motorcoaches using about 124 drivers in intercity bus service. The three commonly owned passenger services interchange buses and drivers frequently each year. Additionally, Adirondack Trailways is party to longstanding agreements for through service with various carriers and for revenue pooling with Greyhound Lines, Inc. The applicants explained that the frequency with which motorcoaches are involved in interchange arrangements with the three Trailways carriers, Greyhound Lines, and other passenger carriers makes it difficult to comply with section 390.21(b)(3). This is especially the case when the interchanges happen on short notice and in remote locations. Therefore, the companies are seeking an exemption from the CMV marking requirements in 49 CFR 390.21(b)(3).

#### IV. Public Comments

On January 14, 2020 (85 FR 2229), the Agency published a notice requesting public comment on the exemption request from Adirondack Trailways, Pine Hill Trailways, and New York Trailways. The Agency received three responses to the notice, with comments from two individuals who opposed the exemption application and comments from the American Bus Association (ABA) writing in support of the request.

Mr. Michael Millard said "[b]ased on the legal issues of three carriers sharing one insurance policy and issues regarding drivers employed by multiple carriers I suggest the application [should be] denied and the three carriers do what they already seem to have done. Become one carrier."

An anonymous commenter stated: "In a world where there is great concern about chameleon carriers, these carriers are asking for an exemption from the one tool that FMCSA has to track who is responsible for the safety of the vehicle on the road."

The ABA believes "This action, coupled with the [carriers'] long-

standing safety record and level of service to the passengers in the region, persuades ABA to support the petition for exemption."

#### V. FMCSA Decision and Safety Analysis

FMCSA believes it is appropriate to grant the applicants an exemption from 49 CFR 390.21 concerning the CMV marking requirements for interchanged passenger-carrying equipment. The frequency with which vehicles are interchanged between the commonly owned and controlled motor carries of passengers, Greyhound Lines and other authorized motor carriers of passengers creates significant challenges for achieving compliance with 49 CFR 390.21(b)(3). The Agency has determined, as required by 49 U.S.C. 31315(b) and the implementing regulations under 49 CFR part 381, that the exemption is likely to achieve a level of safety that is equivalent to, or greater than, the level of safety that would be obtained in the absence of the exemption.

The Agency acknowledges the commenters' concerns. However, the exemption does not provide relief from a rule that could impact the safety performance of the commonly owned companies. The only question is whether the agency should provide an exemption to address the marking requirements when the interchanges between carriers happen frequently, especially on short notice and in remote locations. These carriers still bear full responsibility for compliance with the applicable safety regulations. Furthermore, the granting of the exemption does not leave Federal and State safety enforcement personnel without a means of identifying the carrier responsible for the operation of a vehicle on a given trip, or a means of conducting compliance assurance activities.

From a safety equivalency perspective, each of the passenger carriers providing transportation services would continue to be subject to all regulations concerning on-road safety performance (e.g., driver licensing and qualifications, controlled substances and alcohol testing, inspection, repair, and maintenance, hours of service, etc.). Each passenger carrier would also continue to meet the financial responsibility requirements and maintain operating authority. The Agency's information technology system provides a means for immediate notification by the insurance carrier if the insurance policy is cancelled, or there is a change in operating authority status.

In addition, each vehicle would display the name and USDOT number assigned to the owner/lessee of the passenger-carrying vehicle, with information about the responsible motor carrier readily available from the driver.

FMCSA does not believe the exemption will compromise safety because the public can easily identify one of the FMCSA-authorized carriers involved in the transportation, while Federal or State enforcement personnel would have immediate access to the identity of the responsible carrier, if the name and USDOT number displayed on the side of the passenger-carrying vehicle is not the operating carrier for the specific trip.

#### VI. Terms and Conditions of the Exemption

This exemption from 49 CFR 390.21(b)(3) is issued to Adirondack Transit Lines, Inc. (dba Adirondack Trailways), Pine Hill-Kingston Bus Corp. (dba Pine Hill Trailways), and Passenger Bus Corp. (dba New York Trailways). The conditions of this exemption are as follows:

1. Passenger-carrying commercial vehicles display the name and USDOT number of the owner/lessee;
2. A document is signed by at least one of the authorized carriers involved in the movement of the vehicle that provides (in electronic or paper format):
  - a. The registered name of each party to the agreement;
  - b. The USDOT number for each party to the agreement;
3. The passenger carrier named on the driver's record of duty status is the responsible motor carrier;
4. The owner/lessee and the responsible motor carrier cooperate with all Federal, State and local enforcement officials to provide the identity of the operators of the passenger carrying vehicle.

The carrier and drivers must comply with all other requirements of the Federal Motor Carrier Safety Regulations (49 CFR parts 350–399) and Hazardous Materials Regulations (49 CFR parts 105–180).

#### Preemption

In accordance with 49 U.S.C. 31315(d), as implemented by 49 CFR 381.600, during the period this exemption is in effect, no State shall enforce any law or regulation applicable to interstate commerce that conflicts with or is inconsistent with this exemption with respect to a firm or person operating under the exemption. States may adopt the same exemption with respect to operations in intrastate commerce.

*FMCSA Notification*

Adirondack Trailways, Pine Hill Trailways, and New York Trailways must notify FMCSA within 5 business days of any accident (as defined by 49 CFR 390.5) involving the operation of any of their CMVs while under this exemption. The notification must be emailed to [MCPSD@DOT.GOV](mailto:MCPSD@DOT.GOV) and include the following information:

- a. Name of the Exemption: "Adirondack Trailways, Pine Hill Trailways, and New York Trailways";
- b. The USDOT number of the operating carrier;
- c. Date of the accident;
- d. City or town, and State, in which the accident occurred, or which is closest to the scene of the accident;
- e. Driver's name and driver's license State, number, and class;
- f. Co-Driver's name and driver's license State, number, and class;
- g. Vehicle company number and power unit license plate State and 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, or motor carrier safety regulations; and
- l. The total driving time and the total on-duty time of the CMV driver at the time of the accident.

In addition, if there are any injuries or fatalities, the carrier must forward the police accident report to [MCPSD@DOT.GOV](mailto:MCPSD@DOT.GOV) as soon as available.

*Termination*

The FMCSA does not believe the carriers 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 revoking the exemption. The FMCSA will revoke the exemption immediately for failure to comply with its terms and conditions.

**James A. Mullen,**

*Deputy Administrator.*

[FR Doc. 2020-11740 Filed 5-29-20; 8:45 am]

**BILLING CODE 4910-EX-P**

**DEPARTMENT OF TRANSPORTATION****Federal Motor Carrier Safety Administration**

[Docket No. FMCSA-2020-0101]

**Controlled Substances and Alcohol Use and Testing: Motion Picture Compliance Solutions Application for Exemption From the Drug and Alcohol Clearinghouse Pre-Employment Full-Query**

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

**ACTION:** Notice of final disposition.

**SUMMARY:** FMCSA announces its decision to grant Motion Picture Compliance Solutions (MPCS) an exemption from the requirement that an employer must not employ a driver who is subject to drug and alcohol testing to perform safety-sensitive functions prior to conducting a full query of the Drug and Alcohol Clearinghouse (Clearinghouse) on behalf of its members that employ commercial driver's license (CDL) holders. Under the exemption, MPCS may conduct a limited query of the Clearinghouse before one of its member employers hires a driver for a project, rather than conducting a full pre-employment query as required. If the limited query indicates that information about the driver exists in the Clearinghouse, the driver would not be permitted to perform safety-sensitive functions unless and until a full query subsequently shows that the driver is not prohibited from operating a commercial motor vehicle (CMV). Absent the exemption, a limited query would be available only to satisfy the employer's duty to make an annual query, not a pre-employment query. The Agency has determined that the terms and conditions of the exemption, coupled with MPCS's unique safety protocols, will achieve a level of safety that is equivalent to the level of safety that would be achieved through compliance with the applicable regulation.

**DATES:** This exemption is effective June 1, 2020 and expires May 28, 2025.

**Viewing Comments and Documents**

To view comments, as well as documents mentioned in this notice as being available in the docket, go to [www.regulations.gov](http://www.regulations.gov) and insert the docket number, "FMCSA-2019-0101" in the "Keyword" box and click "Search." Next, click the "Open Docket Folder" button and choose the document to review. If you do not have access to the internet, you may view the docket

online by visiting the Docket Management Facility in Room W12-140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366-9317 or (202) 366-9826 before visiting Docket Operations.

**FOR FURTHER INFORMATION CONTACT:** Ms. Pearlie Robinson, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; Telephone: (202) 366-4325; Email: [MCPSD@dot.gov](mailto:MCPSD@dot.gov). If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366-9826.

**SUPPLEMENTARY INFORMATION:****I. Legal Basis**

FMCSA has authority under 49 U.S.C. 31315(b) to grant exemptions from certain parts of the Federal Motor Carrier Safety Regulations (FMCSRs). FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305(a)). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption, and the regulatory provision from which the exemption is granted. The notice must also specify the effective period and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

**II. Background***Current Regulations*

Currently, 49 CFR 382.701(a)(2) requires that employers must not employ a driver subject to the testing requirements of 49 CFR part 382 without first conducting a pre-employment full query of the Clearinghouse. A full query allows the employer to see any information that exists about a driver in the