

**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](mailto: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](http://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.*

[FR Doc. 2015-15867 Filed 6-26-15; 8:45 am]

**BILLING CODE 4910-EX-P**

**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](mailto: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](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. 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

[FR Doc. 2015-15879 Filed 6-26-15; 8:45 am]

BILLING CODE 4910-EX-P

## 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