

the temporary closure of this segment of I-395 to general traffic should have no impact on interstate commerce. I-95, the main north-south Interstate route in the region, will remain open during the time period of the event. There are five additional I-95 interchanges, just to the north or south of I-395, with connections to the local street system including the arterials servicing the city's downtown area. A sign and supplemental traffic control systems plan is being developed as part of the event's Traffic Management Plan (TMP). In addition, I-695 (Baltimore Beltway) will provide motorists traveling through the region the ability to bypass the impact area by circling around the city.

Commercial motor vehicles of the dimensions and configurations described in 23 CFR 658.13 and 658.15 which serve the impacted area, may use the alternate routes listed above. Vehicles servicing the businesses bordering the impacted area will still be able to do so by also using the alternative routes noted above to circulate around the restricted area. In addition, vehicles not serving businesses in the restricted area but currently using I-395 and the local street system to reach their ultimate destinations will be able to use the I-95 interchanges north and south of I-395 to access the alternative routes. A map depicting the alternative routes is available electronically at the docket established for this notice at <http://www.regulations.gov>. The MDTA has reviewed these alternative routes and determined the routes to generally be capable of safely accommodating the diverted traffic during the period of temporary restriction. As mentioned previously, a sign and supplemental traffic control system plan is also being developed as part of the event's TMP. Commercial vehicles as well as general traffic leaving the downtown area will also be able to use the alternative routes to reach I-95 and the rest of the Interstate System. The BGP and the city are working closely with businesses, including the hotels and restaurants located within the impact area, to schedule deliveries prior to the proposed I-395 closure to the extent feasible. The BGP is also working with affected businesses to schedule delivery services during the event period.

The plan is to use a credentialing process for access through designated gates with access to specific loading areas. This request to temporarily close I-395 was prepared for the MDTA by the BGP and the city. In addition, the city has reached out to the Federal, State, and local agencies to collaborate and coordinate efforts to address the

logistical challenges of hosting the BGP. The BGP and the city have worked extensively with the businesses and residential communities in the city that could be affected by the event. These efforts include the formation of Task Forces and event Sub-Committees, to guide the development of plans for event security, transportation management, public safety and more. Neighborhood meetings have been held since late 2009 to discuss the event and pertinent access issues.

The FHWA seeks comments on this request for temporary deletion from the National Network for consideration in accordance with 23 CFR 658.11(d).

Authority: 23 U.S.C. 127, 315 and 49 U.S.C. 31111, 31112, and 31114; 23 CFR part 658.

Issued on: June 22, 2011.

Victor M. Mendez,
Administrator.

[FR Doc. 2011-16113 Filed 6-27-11; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2007-28043]

Hours of Service (HOS) of Drivers; Renewal of American Pyrotechnics Association (APA) Exemption From the 14-Hour Rule During Independence Day Celebrations

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

ACTION: Notice of renewal of exemption; request for comments.

SUMMARY: The FMCSA announces the renewal of the exemption of specified members of the American Pyrotechnics Association (APA) from FMCSA's prohibition on driving commercial motor vehicles (CMVs) after the 14th hour after the driver comes on duty. The exemption granted to 53 motor carriers and approximately 3,000 CMV drivers is applicable during the periods June 28–July 8, 2011, and June 28–July 8, 2012, inclusive. The requested renewal of a prior exemption for one motor carrier is not being granted. Drivers who operate applicable 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 hours. These drivers will continue to be subject to the 14-hour cumulative on-duty limit, the 11-hour driving time limit, and the 60- and 70-hour weekly on-duty limits. The FMCSA believes

that with the terms and conditions of this exemption in effect, designated APA-member motor carriers will maintain a level of safety that, at a minimum, is equivalent to the level of safety that would be obtained by complying with the regulation.

DATES: This renewed exemption is effective during the periods of June 28 (12:01 a.m.) through July 8, 2011 (11:59 p.m.) and from June 28 (12:01 a.m.) through July 8, 2012 (11:59 p.m.). Comments must be received on or before July 28, 2011.

ADDRESSES: You may submit comments identified by Federal Docket Management System Number FMCSA-2007-28043 by any of the following methods:

- **Federal eRulemaking Portal:** Go to <http://www.regulations.gov>. In the *Enter Keyword OR ID* box enter FMCSA-2007-28043 and click on the tab labeled *Search*. On the ensuing page, click on any tab labeled *Submit a Comment* on the extreme right of the page and a page should open that is titled "Submit a Comment." You may identify yourself under section 1, *Enter Information*, or you may skip section 1 and remain anonymous. You enter your comments in section 2, *Type Comment & Upload File*. When you are ready to submit your comments, click on the tab labeled *Submit*. Your comment is then submitted to the docket; and you will receive a tracking number.

- **Fax:** 1-202-493-2251.

- **Mail:** Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building, Ground Floor, Room W12-140, Washington, DC 20590-0001.

- **Hand Delivery:** West Building, Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m. E.T., Monday through Friday, except Federal holidays.

Instructions: All submissions must include the Agency name and docket number. For detailed instructions on submitting comments and additional information on the exemption process, see the Public Participation heading below. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Please see the *Privacy Act* heading below.

Docket: For access to the docket to read background documents or comments received, go to www.regulations.gov at any time, and in the *Enter Keyword or ID* box enter FMCSA-2007-28043 and click on the tab labeled *Search*.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, *etc.*). You may review DOT's complete Privacy Act Statement published in the **Federal Register** on January 17, 2008 (73 FR 3316) or you may visit <http://edocket.access.gpo.gov/2008/pdf/E8-785.pdf>.

Public Participation: The <http://www.regulations.gov> Web site is generally available 24 hours each day, 365 days each year. You can obtain electronic submission and retrieval help and guidelines under the "help" section of the <http://www.regulations.gov> Web site. If you want us to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments online.

FOR FURTHER INFORMATION CONTACT: Ms. Christine Hydock, FMCSA Driver and Carrier Operations Division, Office of Bus and Truck Standards and Operations, Telephone: 202-366-4325. E-mail: MCPSPD@dot.gov.

SUPPLEMENTARY INFORMATION:

APA Application for Exemption Renewal

The hours-of-service (HOS) rules in 49 CFR 395.3(a)(2) prohibit a property-carrying CMV driver from driving 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 renew 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, had previously requested and received an exemption from this HOS subsection for certain motor carrier members. The APA has applied for renewal of that exemption. A copy of the request for renewal is included in the docket referenced at the beginning of this notice. A copy of APA's original 2004 request for waiver or exemption is also in the docket. The FMCSA has evaluated the APA application for renewal on its merits and decided to renew the exemption for 53 companies for a two-year period, and not renew the

exemption requested for one company. The list of APA-member companies covered by the exemption from 49 CFR 395.3(a)(2) is included as an Appendix to this Notice.

As stated in APA's 2004 request for waiver or exemption, the CMV drivers employed by APA-member companies are trained pyrotechnicians, and hold commercial driver's licenses (CDLs) with hazardous materials (HM) endorsements. They transport fireworks and equipment by CMV on a very demanding schedule during a brief Independence Day period, often to remote locations. After they arrive, the APA drivers are responsible for set-up and staging of the fireworks shows.

In 2009, FMCSA granted a limited exemption to 14 new APA-member motor carriers (74 FR 29266, June 19, 2009) and renewed 61 exemptions of APA-member motor carriers (74 FR 29264, June 19, 2009) for their CMV transportation of fireworks for Independence Day displays in 2009 and 2010. The exemption was limited to the period from June 28 to July 8, inclusive, in 2009 and 2010. Previously, the Agency had granted a waiver to APA for a similar exception for the 2004 Independence Day period, and two-year exemptions for the 2005–2006 and 2007–2008 periods. The Agency is not aware of any adverse safety events related to APA operations during these Independence Day periods.

The APA is seeking renewal of the 2009 exemptions for the 2011 and 2012 Independence Day periods because it argues that compliance with the current 14-hour rule 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 under the current HOS rules, APA-member companies claim they would be required to hire a second driver for most trips. The APA argues that the result would be a substantial increase in the cost of the fireworks shows—beyond the means of many of its members' customers—and that many Americans would be denied this important component of the celebration of Independence Day.

Method To Ensure an Equivalent or Greater Level of Safety

The APA believes that renewal of the exemption will not adversely affect the safety of the fireworks transportation provided by these motor carriers. According to APA, its member motor carriers have operated under this exemption for seven 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 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 holding 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 its 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 exemption.

In its original exemption request, APA argued that the operational demands of this unique industry minimize the risks of CMV crashes. In the last few days before the Independence Day holiday, 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 these APA operations, conducted under the terms and conditions of this limited exemption, will provide a level of safety that, at a minimum, is equivalent to the level of safety achieved without the exemption.

Advocates for Highway and Auto Safety (Advocates) June 5, 2009, Comments

During the exemption renewal process in 2009, FMCSA's June 19, 2009, notice did not acknowledge or respond to comments submitted by Advocates. Although Advocates timely filed its comments on June 5, prior to the June 8 deadline for responding to the Agency's May 22 notices (74 FR 24066 and 74 FR 24069), those comments were not available at <http://www.regulations.gov>, the Web site at which docket comments are posted, until after the comment period had closed. By the time the personnel responsible for managing this Web site for all Federal regulatory matters had posted Advocates' comments to the electronic docket, FMCSA staff had prepared its draft notice of final

disposition. Because of the time constraints for issuing a decision in time for the 2009 Independence Day celebration, FMCSA issued the notice of final disposition on June 19, 2009 (74 FR 29264), without the Advocates' comments.

In consideration of the administrative delay in the posting of the Advocates' comments to the docket, FMCSA published a notice requesting public comment on March 25, 2011, pertaining to the safety impact of the exemption prior to consideration of any subsequent requests for renewal of the exemption (76 FR 16852). The deadline for submitting comments was April 25, 2011. As of June 20, 2011, no comments had been submitted to the public docket. However, because the Agency did not specifically address Advocates' comments in 2009, we will do so now.

FMCSA Response to Advocates' 2009 Comments

Advocates argue that the Agency is relying on uncorroborated statements about APA members' work schedules and safety management controls. The Agency acknowledges that it does not, as a matter of routine practice, review data on the actual schedules drivers are working during the period of the exemption. However, the participating carriers are generally required under 49 CFR 395.8 to retain records of duty status information for a period of 6 months from the date the records are generated, as is the case for all interstate drivers subject to the recordkeeping provisions of the HOS rules. Therefore, in the event of a crash or unintentional release or detonation of hazardous materials, the carriers would be required to produce, upon demand, records to document the actual work and rest hours of the drivers in question, which would enable the Agency to assess the likelihood of fatigue being a factor in the adverse event. Also, the Agency retains full regulatory jurisdiction to conduct investigations of allegations of violations of the Federal safety or hazardous materials regulations by these carriers, including allegations of violations of the terms and conditions of the exemption.

With regard to participating carriers' safety management controls, the Agency routinely reviews the safety performance records of all carriers prior to granting an exemption. Any carrier with safety management deficiencies that would call into question its ability to operate safely under the terms and conditions of the exemption is excluded from operating under the exemption. Carriers that have violation rates that meet or exceed the thresholds under the

Agency's Compliance, Safety, Accountability (CSA) Safety Measurement System are subject to enforcement interventions to address the deficiencies in their safety management controls.

As for Advocates' charge that the exemption process is a procedural and substantive abuse of regulatory authority, the Agency's actions are consistent with the statutory authority provided under 49 U.S.C. 31315 concerning waivers, exemptions and pilot programs. The notice-and-comment process associated with exemption applications is consistent with notice-and-comment rulemaking procedures. In both cases, FMCSA offers for public comment a matter being considered for action, and the final action taken by the Agency must consider the public comments received. The Agency provides a formal written response to substantive concerns raised by the commenters via a **Federal**

Register notice to bring to closure the matter before the Agency. The Agency may agree or disagree with commenters. Any decision to move forward with the exemption is not an abuse of authority, but an exercise of judgment based on the information in the public record.

In that regard, the Agency does not consider the granting of APA's exemption application or requests for renewal to represent a "major departure" from the HOS regulations, as argued by Advocates. While the participating carriers would be provided with limited relief from 49 CFR 395.3(a)(2), which prohibits a property-carrying CMV driver from driving after the 14th hour after coming on duty following 10 consecutive hours off duty, drivers will be prohibited from driving at any time after accumulating 14 hours of on-duty time. Therefore, drivers would not be allowed to drive CMVs in interstate commerce after accumulating 14 hours of on-duty time, following 10 consecutive hours off-duty. The participating drivers will continue to be subject to the 11-hour driving time limit following 10 consecutive hours off duty, and the 60- and 70-hour weekly on-duty limits. The FMCSA believes that with the terms and conditions of this exemption in effect, APA-member motor carriers will 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.

Non-Renewal of a Prior Exemption

During its review of the safety history of applicants for this exemption, FMCSA examined records of the Pipeline and Hazardous Materials Safety Administration (PHMSA), which has

jurisdiction over certain aspects of the transportation of hazardous materials, as specified in the Hazardous Materials Regulations (HMR) (49 CFR parts 105–185). PHMSA records indicate that one of the APA-member applicants for this exemption—Melrose Pyrotechnics, Inc. (Melrose), PO Box 302, Kingsbury, IN 46345, USDOT 434586—was investigated on November 23, 2009, and that PHMSA investigators discovered five violations regarding the shipment of hazardous materials, one of which was coded as "high severity" (Case 09436056). This resulted in an enforcement action that included a total of \$24,800 in penalties. In view of this unfavorable safety information, FMCSA is not granting APA's request to include Melrose among the exempted motor carriers.

Terms and Conditions of the Exemption

Period of the Exemption

The exemption from the requirements of 49 CFR 395.3(a)(2) is effective June 28 through July 8, 2011, inclusive, and from June 28 through July 8, 2012, inclusive. The exemption expires on July 8, 2012, at 11:59 p.m.

Extent of the Exemption

This exemption is restricted to drivers employed by the 53 companies, firms and entities listed in the appendix to this notice. The drivers will be given a limited exemption from the requirements of 49 CFR 395.3(a)(2). This regulation prohibits a driver from driving 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. This exemption is contingent on each driver driving no more than 11 hours in a 14-hour period. The exemption is further contingent on each driver having a full 10 consecutive hours off duty following 14 hours on duty prior to beginning a new driving period. The carriers 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

During the periods the exemption is in effect, no State shall 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 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. Date of the accident,
- b. City or town, and State, in which the accident occurred, or which is closest to the scene of the accident,
- c. Driver's name and driver's license number,
- d. Vehicle number and State license number,
- e. Number of individuals suffering physical injury,
- f. Number of fatalities,
- g. The police-reported cause of the accident,
- h. Whether the driver was cited for violation of any traffic laws, or motor carrier safety regulations, and

i. The total driving time and the total on-duty time of the CMV driver at the time of 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. Exempt motor carriers and drivers are subject to FMCSA monitoring while operating under this exemption.

Request for Comments

In accordance with 49 U.S.C. 31315(b)(4) and 31136(e), FMCSA requests public comments on the renewal of APA's exemption from the requirements of 49 CFR 395.3(a)(2). The

FMCSA will review all comments received and determine whether the renewal of the exemption is consistent with the requirements of 49 U.S.C. 31315 and 31136(e). Comments received after the comment closing date will be filed in the public docket and will be considered to the extent practicable.

Interested parties or organizations possessing information that would show that any or all of these APA member companies are not achieving the requisite statutory level of safety should immediately notify FMCSA. The Agency will evaluate any information submitted and, if safety is being compromised or if the continuation of the exemption is inconsistent with 49 U.S.C. 31315(b)(4) and 31136(e), FMCSA will immediately take steps to revoke the exemption of the company or companies and drivers in question.

Issued on: June 22, 2011.

Anne S. Ferro,
Administrator.

APPENDIX TO NOTICE OF RENEWAL OF AMERICAN PYROTECHNICS ASSOCIATION (APA) EXEMPTION FROM THE 14-HOUR HOS RULE DURING 2011 AND 2012 INDEPENDENCE DAY CELEBRATIONS

Motor carrier	Address 1	Address 2	DOT No.
1. Alonzo Fireworks Display, Inc	12 County Rd 75	Mechanicsville, NY 12118	420639
2. American Fireworks Company	7041 Darrow Road	Hudson, OH 44236	103972
3. Arrowhead Fireworks Co., Inc	3625 Normanna Rd	Duluth, MN 55803	125673
4. Atlas Enterprises Inc	6601 Nine Mile Azle Rd	Fort Worth, TX 76135	0116910
5. Atlas Pyrovision Productions, Inc	136 Old Sharon Road	Jaffrey, NH 03452	789777
6. B.J. Alan Company	555 Martin Luther King, Jr Blvd	Youngstown, OH 44502-1102	262140
7. Cartwright Fireworks, Inc	1608 Keely Road	Franklin, PA 16323	882283
8. Central States Fireworks, Inc	18034 Kincaid Street	Athens, IL 62613	1022659
9. Colonial Fireworks Company	5225 Telegraph Road	Toledo, OH 43612	177274
10. Entertainment Fireworks, Inc	PO Box 7160	Olympia, WA 98507-7160	680942
11. Falcon Fireworks	3411 Courthouse Road	Guyton, GA 31312	1037954
12. Fireworks & Stage FX America	PO Box 488	Lakeside, CA 92040	908304
13. Fireworks by Grucci, Inc	1 Grucci Lane	Brookhaven, NY 11719	324490
14. Fireworks Productions of Arizona, Ltd	17034 S 54th Street	Chandler, AZ 85226	948780
15. Fireworks West Internationale	3200 West 910 North	Logan, UT 84321	245423
16. Garden State Fireworks, Inc	383 Carlton Road	Millington, NJ 07946	435878
17. Gateway Fireworks Displays	PO Box 39327	St Louis, MO 63139	1325301
18. Global Pyrotechnics Solutions, Inc	10476 Sunset Drive	Dittmer, MO 63023	1183902
19. Great Lakes Fireworks	24805 Marine	Eastpointe, MI 48021	1011216
20. Hamburg Fireworks Display Inc	4300 Logan Lancaster Rd	Lancaster, OH	395079
21. Hollywood Pyrotechnics, Inc	1567 Antler Point	Eagan, MN 55122	1061068
22. Ingram Enterprises dba Fireworks over America	6597 W Independence Drive	Springfield, MO 65802	0268419
23. Island Fireworks Company	N735 825th St	Hager City, WI 54014	414583
24. J&M Displays, Inc	18064 170th Ave	Yarmouth, IA 52660	377461
25. Jake's Fireworks/Fireworks Spectacular	2311 A West 4th St	Pittsburg, KS 66762	449599
26. Johnny Rockets Fireworks Display Co	4410 N. Hamilton	Chicago, IL 60625	1263181
27. Kellner's Fireworks Inc	478 Old Rte 8	Harrisville, PA	481553
28. Lantis Productions dba Lantis Fireworks and Lasers	PO Box 491	Draper, UT 84202	195428
29. Legion Fireworks Co., Inc	10 Legion Lane	Wappingers Falls, NY 12590	554391
30. Mad Bomber/Planet Productions	PO Box 294	Kingsbury, IN 46345	777176
31. Montana Display Inc	9480 Inspiration Drive	Missoula, MT 59808	1030231
32. Precocious Pyrotechnics, Inc	4420-278th Ave NW	Belgrade, MN 56312	435931
33. Pyro Engineering Inc., dba/Bay Fireworks	110 Route 110, Suite 102	Huntington Station, NY 11746	530262
34. Pyro Shows Inc	701 W. Central Ave	LaFollette, TN 37766	456818
35. Pyro Spectaculars, Inc	3196 N Locust Ave	Rialto, CA 92376	029329
36. Pyrotecnico	302 Wilson Rd.	New Castle, PA 16105	526749
37. Pyrotecnico of Louisiana, LLC	60 West Ct	Mandeville, LA 70471	548303

APPENDIX TO NOTICE OF RENEWAL OF AMERICAN PYROTECHNICS ASSOCIATION (APA) EXEMPTION FROM THE 14-HOUR HOS RULE DURING 2011 AND 2012 INDEPENDENCE DAY CELEBRATIONS—Continued

Motor carrier	Address 1	Address 2	DOT No.
38. Rainbow Fireworks, Inc	76 Plum Ave	Inman, KS 67546	1139643
39. RES Specialty Pyrotechnics	21595 286th St	Belle Plaine, MN 56011	523981
40. Rich Brothers Company	700 S Marion Rd	Sioux Falls, SD 57106	001356
41. Rozzi's Famous Fireworks, Inc	11605 North Lebanon Rd	Loveland, OH 45140	0483686
42. Skyworks, Ltd	13513 W. Carrier Rd	Carrier, OK 73727	1421047
43. Spielbauer Fireworks Co, Inc	220 Roselawn Blvd	Green Bay, WI 54301	046479
44. Stonebraker-Rocky Mountain Fireworks Co.	5650 Lowell Blvd, Unit E	Denver, CO 80221	0029845
45. Vermont Fireworks Co., Inc./Northstar Fireworks Co., Inc.	2235 Vermont Route 14 South	East Montpelier, VT 05651	310632
46. Wald & Co., Inc	PO Box 319	Greenwood, MO 64034-0319	087079
47. Walt Disney Parks and Resorts US Inc.	Box 10000	Lake Buena Vista, FL 32830	1025131
48. Western Enterprises, Inc	PO Box 160	Carrier, OK 73727	203517
49. Winco Fireworks Int. LLC	1992 NW Hwy 50	Lone Jack, MO	259688
50. Wolverine Fireworks Display, Inc	205 W Seidlers	Kawkawlin, MI	376857
51. Victory Fireworks Inc	579 Vincent Lane	Ellsworth, WI 54011	539751
52. Young Explosives Corp	P.O. Box 18653	Rochester, NY	450304
53. Zambelli Fireworks MFG, Co., Inc	PO Box 1463	New Castle, PA 16103	033167

[FR Doc. 2011-16192 Filed 6-27-11; 8:45 am]

BILLING CODE 4910-EX-P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2007-28043]

Hours of Service (HOS) of Drivers; Granting of Exemption; American Pyrotechnics Association (APA)

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

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

SUMMARY: FMCSA announces its decision to grant the application for exemption from the American Pyrotechnics Association (APA) on behalf of 9 member motor carriers seeking relief from FMCSA's hours-of-service (HOS) regulation that prohibits driving of commercial motor vehicles (CMV) after the 14th hour after the driver comes on duty [49 CFR 395.3(a)(2)].

DATES: This exemption is effective during the periods of June 28, 2011, through July 8, 2011, and June 28, 2012, through July 8, 2012, inclusive.

FOR FURTHER INFORMATION CONTACT: Ms. Christine Hydock, FMCSA Driver and Carrier Operations Division, Office of Bus and Truck Standards and Operations, Telephone: 202-366-4325. E-mail: MCPSPD@dot.gov.

SUPPLEMENTARY INFORMATION:

Background

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 up to two years 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” (49 U.S.C. 31315(b)(1)).

The initial APA application for waiver or exemption relief from the 14-hour rule was submitted in 2004; a copy of the application is in the docket. That application fully describes the nature of the pyrotechnic operations of the CMV drivers employed by APA-member motor carriers during a typical Independence Day period. The CMV drivers are trained pyrotechnicians and hold commercial driver's licenses with hazardous materials endorsements. They transport fireworks and related equipment by CMV on a very demanding schedule, often to remote locations. After they arrive, the APA drivers are responsible for set-up and staging of the fireworks shows.

Previously, the Agency had granted a waiver to APA for a similar exemption for the 2004 Independence Day period, and two-year exemptions for the 2005–2006 and 2007–2008 periods. In 2009, FMCSA granted the same limited exemption to 14 new APA-member motor carriers (74 FR 29266, June 19, 2009) and renewed 61 exemptions of APA-member motor carriers (74 FR 29264, June 19, 2009) for their CMV transportation of fireworks for Independence Day displays in 2009 and 2010.

APA is currently seeking relief for 9 APA-member companies from FMCSA's

HOS regulation for the 2011 and 2012 Independence Day periods. A list of the 9 APA-member companies being exempted from 49 CFR 395.3(a)(2) is included as an Appendix to this notice.

The HOS rules prohibit a property-carrying CMV driver from driving after the 14th hour after coming on duty following 10 consecutive hours off duty (49 CFR 395.3(a)(2)). During the periods June 28—July 8, 2011, and June 28—July 8, 2012, inclusive, the companies named in the Appendix, and CMV drivers employed by them, will be exempt from section 395.3(a)(2) if they are operating in conjunction with the staging of fireworks shows celebrating Independence Day.

The exemption permits CMV drivers engaged in these operations to exclude off-duty and sleeper-berth time of any length from the calculation of the 14-hour on-duty period. These drivers must continue to obtain 10 consecutive hours off duty prior to the 14-hour period, and observe the 11-hour driving time limit, as well as the 60- and 70-hour on-duty limits.

APA sought this exemption because compliance with the current 14-hour rule by its members during these two 11-day periods would impose a substantial economic hardship on numerous cities, towns and municipalities, as well as the APA companies. To meet the demand for fireworks under the current HOS rules, APA asserts that its member companies 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 would deny many Americans this