

[FR Doc. E9-11988 Filed 5-21-09; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Project Number SP-0008-03(048)]

Environmental Impact Statement: Rankin County, MS

AGENCY: Federal Highway Administration (FHWA), Department of Transportation (DOT).

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Rankin County, Mississippi. The project study area will extend a distance of approximately 15 miles from U.S. Highway 49 near Star, Mississippi, to Interstate 20 near State Route 475 in Pearl, Mississippi.

FOR FURTHER INFORMATION CONTACT: Mr. Dickie Walters, Environmental Protection Specialist, Federal Highway Administration, 666 North Street, Suite 105, Jackson, MS 39202-3199, Telephone: (601) 965-4217. Contact at the State level is Mr. Claiborne Barnwell, Environmental/Location Division Engineer, Mississippi Department of Transportation, P.O. Box 1850, Jackson, MS 39215-1850, telephone: (601) 359-7920.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Mississippi Department of Transportation (MDOT), will prepare an Environmental Impact Statement (EIS) for a U.S. Highway 49 Star Connector in Rankin County, Mississippi. The proposed improvements are intended to help alleviate high levels of congestion and travel delays on U.S. Highway 49 between Star and Interstate 20.

A Coordination Plan for Agency and Public Involvement will be developed in accordance with Public Law 109-59, SAFETEA-LU, Title VI, Section 6002, Efficient Environmental Reviews for Project Decision Making, August 10, 2005, and will outline the process by which project information will be communicated to the lead, cooperating, participating, and other agencies and organizations, and the public. This plan will also identify how input from agencies and the public will be solicited and considered. The Coordination Plan is intended to be a flexible and fluid document and will be available at public and agency meetings for review.

The purpose of the EIS is to address the transportation, environmental, and

safety issues of such a transportation corridor. The proposed fully controlled U.S. Highway 49 Star Connector on new location would provide a safer roadway and improve mobility for those traveling to or through the Jackson Metropolitan area from the South Mississippi region. Additionally, the proposed U.S. Highway 49 Star Connector would create an additional route to I-55 North by providing traffic a route through the planned Airport Parkway reducing movements through the I-55/I-20/U.S. 49 interchange. Alternatives under consideration include (1) taking no action and (2) build alternatives.

The FHWA and MDOT are seeking input as a part of the scoping process to assist in determining and clarifying issues relative to this project. Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies, Native American tribes, private organizations and citizens who have previously expressed or are known to have interest in this proposal. A formal scoping meeting with Federal, State, and local agencies, and other interested parties will be held in the near future. Public involvement meetings will be held during the EIS process. The draft EIS will be available for public and agency review and comment prior to the official public hearing.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

Dated: May 18, 2009.

Donald E. Davis,

Assistant Division Administrator, Federal Highway Administration, Mississippi Division, Jackson, Mississippi.

[FR Doc. E9-11991 Filed 5-21-09; 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; Application of American Pyrotechnics Association (APA) for Exemption From the 14-Hour Rule During Independence Day Celebrations

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

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

SUMMARY: The American Pyrotechnics Association (APA) has applied for a limited exemption from FMCSA's regulation that drivers of commercial motor vehicles (CMVs) may not drive after the 14th hour after coming on duty. The exemption would apply solely to the operation of CMVs by 14 designated APA motor carriers in conjunction with staging fireworks shows celebrating Independence Day during the periods June 28-July 8, 2009, and June 28-July 8, 2010, inclusive. During these two periods, the approximately 100 CMV drivers employed by these 14 APA motor carriers in conjunction with staging fireworks shows would be allowed to exclude off-duty and sleeper-berth time of any length from the calculation of the 14 hours. These drivers would not be allowed to drive after accumulating a total of 14 hours of on-duty time, following 10 consecutive hours off duty, and would continue to be subject to the 11-hour driving time limit, and the 60- and 70-hour on-duty limits. The APA maintains that the terms and conditions of the limited exemption would ensure a level of safety equivalent to, or greater than, the level of safety achieved without the exemption.

DATES: This exemption would be effective during the periods of June 28, 2009, through July 8, 2009, inclusive, and June 28, 2010, through July 8, 2010, inclusive. The exemption would expire on July 9, 2010. Comments must be received on or before June 8, 2009.

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

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the online instructions for submitting comments.

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

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

- *Hand Delivery or Courier:* West Building, Ground Floor, Room W12-140, 1200 New Jersey Ave., SE., Washington, DC 20590, 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 <http://www.regulations.gov>, and follow the online instructions for accessing the dockets, or go to the street address listed above.

Privacy Act: You may 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 the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19476) or you may visit <http://DocketInfo.dot.gov>.

Public Participation: The Federal eRulemaking Portal is available 24 hours each day, 365 days each year. You may obtain electronic submission and retrieval help and guidelines under the "help" section of the Federal eRulemaking Portal 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. Comments received after the comment closing date will be included in the docket, and we will consider late comments to the extent practicable.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas L. Yager, Chief, FMCSA Driver and Carrier Operations Division, Office of Bus and Truck Standards and Operations; Telephone: 202-366-4325. E-mail: MCPSD@dot.gov.

SUPPLEMENTARY INFORMATION:

Background

Section 4007 of the Transportation Equity Act for the 21st Century (Pub. L. 105-178, 112 Stat. 107, June 9, 1998) amended 49 U.S.C. 31315 and 31136(e) to provide FMCSA authority to grant exemptions from its motor carrier safety regulations, including the hours-of-service (HOS) rules. The procedure for requesting an exemption is prescribed in 49 CFR part 381. 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, and to comment on the

request. The Agency may grant an exemption for up to 2 years.

The Agency reviews the safety analyses and public comments and may grant the exemption 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 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reason for denying or, in the alternative, the specific person or class of persons receiving the exemption, and the regulatory provision or provisions from which the exemption is granted. The notice must also specify the effective period of the exemption (up to 2 years), and explain the terms and conditions of the exemption.

APA Application for Exemption

The 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. APA, a trade association representing the domestic fireworks industry, has applied for an exemption from this subsection for 14 of its member motor carriers. A copy of the application is included in the docket referenced at the beginning of this notice. A list of the 14 APA motor carriers within the scope of this exemption request is included as an appendix to this notice.

The initial APA application for this type of exemption was submitted in 2004; a copy of it is in this 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 pyro-technicians holding a commercial driver's license (CDL) with hazardous materials (HM) endorsement. They transport fireworks and related equipment by CMV on a very demanding schedule, often to remote locations. After they arrive, the APA drivers set-up and stage fireworks shows.

In 2007, FMCSA granted this same limited exemption to 70 APA-member motor carriers for their CMV transportation of fireworks for Independence Day displays in 2007 and 2008 (72 FR 28755, May 22, 2007). The Agency is not aware of any adverse safety events related to APA operations during these periods. APA has now applied for the same limited exemption for 14 additional motor carriers. (APA has also applied for renewal of the exemption granted in 2007 for 61 of the 70 member-companies.)

APA is seeking 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 APA's customers—and would deny many Americans this important component of their Independence Day celebration.

Method To Ensure an Equivalent or Greater Level of Safety

APA believes that this exemption would not adversely affect the safety of the motor carrier transportation provided by its members during the two eleven-day periods. According to the APA, without the extra on-duty 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.

APA has stated its belief that the operational demands of this unique industry minimize the risk of a CMV crash. During the exemption period, 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 a period of several hours off duty in the late afternoon and early evening prior to the shoot. During this time, the CMV drivers are able to rest and nap, thereby reducing or eliminating the fatigue accumulated during the day. After the shoot, they drive the CMVs to the point of origin. This occurs late in the evening, and thus avoids heavy traffic. Before beginning another duty day, these drivers must take 10 consecutive hours off duty, the same as other CMV drivers. APA believes that these operations, conducted under the terms and conditions of this limited exemption, would provide a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption.

Terms and Conditions of the Exemption*Period of the Exemption*

APA's request for exemption from the requirements of 49 CFR 395.3(a)(2) would be effective June 28 through July 8, 2009, inclusive, and from June 28 through July 8, 2010, inclusive. The requested exemption would expire on July 9, 2010.

Extent of the Exemption

This exemption would be restricted to drivers employed by the 14 companies, firms and entities listed in the appendix to this notice. The drivers would be entitled to a limited exemption from the requirements of 49 CFR 395.3(a)(2), which 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 would be able to exclude off-duty and sleeper-berth time of any length from the calculation of the 14-hour limit. This exemption would be contingent on each driver driving no more than 11 hours in a 14-hour on-duty period. The exemption would further be contingent on each driver having 10 consecutive hours off duty following 14 hours on duty prior to beginning a new driving period. The drivers must comply with all other requirements of 49 CFR part 395.

Preemption

During the periods the exemption would be in effect, no State would be permitted to 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.

Notification to FMCSA

Each company, firm and entity listed in the appendix to this notice would be required to 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

During the exemption periods, FMCSA would retain the authority to take all steps necessary to protect the public interest, including revocation of the exemption. Exempt motor carriers and drivers would be subject to FMCSA monitoring while operating under this exemption. FMCSA would immediately revoke the exemption for failure to comply with its terms and conditions.

Request for Comments

In accordance with 49 U.S.C. 31315(b)(4) and 31136(e), FMCSA requests public comments on APA's request for a limited exemption from the requirements of 49 CFR 395.3(a)(2) for the 14 motor carriers listed in the appendix to this notice. FMCSA will consider all comments received by close of business on June 8, 2009. All comments will be available for examination in the docket listed under the **ADDRESSES** section of this notice. The Agency will consider to the extent practicable comments received in the public docket after the closing date of the comment period.

Issued on: May 18, 2009.

Larry W. Minor,

Associate Administrator for Policy and Program Development.

APPENDIX TO THE NOTICE OF APPLICATION OF AMERICAN PYROTECHNICS ASSOCIATION (APA) FOR A LIMITED HOS EXEMPTION FOR 14 MOTOR CARRIERS DURING THE 2009 AND 2010 INDEPENDENCE DAY CELEBRATIONS

	Motor carrier	Address	DOT No.
1	Alpha-Lee Enterprises, Inc	4111 FM 2351, Friendswood, TX 77546	1324580
2	American Fireworks Company	7041 Darrow Road, Hudson, OH 44236	103972
3	Atlas Pyrovision Productions, LLC	P.O. Box 498, Jaffrey, NH 03452	789777
4	Cartwright Fireworks, Inc	1608 Keely Road, Franklin, PA 16323	882283
5	DDT, LLC—All American Transport, LLC	4503 E. 460, Pryor, OK 74361	1606354
6	Entertainment Fireworks, Inc	P.O. Box 7160, Olympia, WA 98507-7160	680942
7	Fireworks Productions of Arizona, Ltd	17034 S 54th Street, Chandler, AZ 85226	948780
8	Fireworks West Internationale	3200 West 910 North, Logan, UT 84321	245423
9	Great Lakes Fireworks	24805 Marine, Eastpointe, MI 48021	1011216
10	Hollywood Pyrotechnics, Inc	1567 Antler Point, Eagan, MN 55122	1061068
11	Johnny Rockets Fireworks Display Co	4410 N. Hamilton, Chicago, IL 60625	1263181
12	Night Magic, Inc	P.O. Box 294, Kingsbury, IN 46345	557323
13	Rainbow Fireworks, Inc	76 Plum Ave., Inman, KS 67546	1139643
14	Victory Fireworks Inc	579 Vincent Lane, Ellsworth, WI 54011	539751

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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: FMCSA announces its decision to renew the exemption of the American Pyrotechnics Association (APA) from FMCSA's regulation that drivers of commercial motor vehicles (CMVs) may not drive after the 14th hour after coming on duty. The exemption for 61 motor carriers and approximately 3,000 CMV drivers is applicable during the periods June 28–July 8, 2009, and June 28–July 8, 2010, inclusive. Drivers who operate 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 11-hour driving time limit, and the 60- and 70-hour on-duty limits. FMCSA believes that with the terms and conditions in place, APA members 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.

DATES: This renewed exemption is effective during the periods of June 28, 2009, through July 8, 2009, inclusive, and June 28, 2010, through July 8, 2010, inclusive. The exemption expires on July 9, 2010. Comments must be received on or before June 8, 2009.

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

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the Online instructions for submitting comments.
- *Telefax:* 1-202-493-2251.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Ave., SE., West Building, Ground Floor, Room W12-140, Washington, DC 20590-0001.
- *Hand Delivery or Courier:* West Building, Ground Floor, Room W12-

140, 1200 New Jersey Ave., SE., Washington, DC 20590, 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 <http://www.regulations.gov>, and follow the Online instructions for accessing the dockets, or go to the street address listed above.

Privacy Act: You may 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 the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19476) or you may visit <http://DocketInfo.dot.gov>.

Public Participation: The Federal eRulemaking Portal is available 24 hours each day, 365 days each year. You may obtain electronic submission and retrieval help and guidelines under the "help" section of the Federal eRulemaking Portal 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. Comments received after the comment closing date will be included in the docket, and we will consider late comments to the extent practicable.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas L. Yager, Chief, FMCSA Driver and Carrier Operations Division, Office of Bus and Truck Standards and Operations; Telephone: 202-366-4325, e-mail: MCPSD@dot.gov.

SUPPLEMENTARY INFORMATION:**Background**

Under 49 U.S.C. 31315 and 31136(e), FMCSA may renew an exemption from the hours of service (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. FMCSA has evaluated the APA application for a renewal on its merits and decided to renew the exemption for the 61 companies requested for a two-year period. 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.

APA Application for Exemption Renewal

The 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. APA, a trade association representing the domestic fireworks industry, has applied for renewal of an exemption from this subsection. 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 request for exemption, submitted in December 2004, is also in the docket.

As stated in APA's 2004 request for exemption, the CMV drivers employed by APA members are trained pyrotechnicians, and hold a commercial driver's license (CDL) with hazardous materials (HM) endorsement. They transport fireworks and equipment by CMV on a very demanding schedule during a brief Fourth of July period, often to remote locations. After they arrive, the APA drivers set up and stage fireworks shows.

In 2007, FMCSA granted this exemption to certain APA members for property-carrying CMV transportation associated with the Independence Day fireworks displays in 2007 and 2008. The exemption was limited to the period from June 28 to July 6, inclusive, in 2007 and 2008 (72 FR 28755, May 22, 2007).

APA is seeking renewal of this exemption for the 2009 and 2010 Independence Day periods because 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 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 APA's customers—and that many Americans would be denied this important component of the celebration of Independence Day.