

after the comment closing date will be included in the docket and will be considered to the extent practicable.

**FOR FURTHER INFORMATION CONTACT:** Jeff Secrist, Chief, East-South Division, FMCSA Office of Registration & Safety Information, West Building 6th Floor, 1200 New Jersey Avenue SE., Washington, DC 20590. Telephone: (202) 385-2367; email [jeff.secrist@dot.gov](mailto:jeff.secrist@dot.gov).

**SUPPLEMENTARY INFORMATION:**

*Background:* The Federal Motor Carrier Safety Administration (FMCSA) registers for-hire motor carriers under 49 U.S.C. 13902, surface freight forwarders under 49 U.S.C. 13903, and property brokers under 49 U.S.C. 13904. Each registration is effective from the date specified under 49 U.S.C. 13905(c). 49 CFR part 365.413: "Procedures for changing the name or business form of a motor carrier, freight forwarder, or property broker" states that carriers must submit a letter containing the required information to FMCSA's Office of Registration and Safety Information (MC-RS), formerly sent to FMCSA's IT Operations Division (MC-RIO), requesting the change; the new form would assist entities in reporting this information accurately and completely. 49 CFR 360.3(f) mentions fees that FMCSA collects for "petition for reinstatement of revoked operating authority," but does not provide any specifics for the content that petition should take.

For-hire motor carriers, brokers and freight forwarders are required to notify MC-RS when they change the name or address of the company. Currently, the name change request can be filed online through the Licensing and Insurance (L&I) Web site, or companies can fax or mail a letter requesting either name or address changes. Carriers can also request reinstatement of a revoked operating authority either via fax or online via the Licensing & Insurance (L&I) Web site. But many choose not to do so. About 40% of name changes and 60% of reinstatements are filed online. Of the rest, most are filed by faxing a request letter to MC-RS. All the address changes are received by either fax or mail. The information collected is then entered in the L&I database by FMCSA staff. This enables FMCSA to maintain up-to-date records so that the agency can recognize the entity in question in case of enforcement actions or other procedures required to ensure that the carrier is fit, willing and able to provide for-hire transportation services, and so that entities whose authority has been revoked can resume operation if they are not otherwise blocked from doing

so. But the current method of collecting the data means that many requests include incomplete data, and cannot be processed without additional follow-up efforts by both FMCSA staff and the entities. This multi-purpose form, therefore, would simplify the process of gathering the information needed to process the entities' requests in a timely manner, with the least amount of effort for all parties involved. This multi-purpose form would be filed by registrants on a voluntary, as-needed basis. This multi-purpose form could be put on the FMCSA Web site so entities could access and print/fax/email the form to MC-RS.

Users may report the following data points (whichever are relevant to their records change request):

1. What are the legal/doing business as names of the entity/representative?
2. What is the contact information of entity/representatives (phone number, address, fax number, email address)?
3. What are the requested changes to name or address of entity?
4. What is the docket MC/MX/FX number of the entity?
5. What is the US DOT number of the entity?
6. Is there any change in ownership, management or control of the entity?
7. What kind of changes is the entity making to the company?
8. Which authority does the entity/representative wish to reinstate, motor carrier or broker?
9. Does the entity/representative authorize the fee for the name change or reinstatement?
10. Does the entity/representative authorize the reinstatement of operating authority or name/address change?
11. What is the credit card information (name, number, expiration date, address, date) for the card used to pay the fee?

*Title:* Motor Carrier Records Change Form.

*OMB Control Number:* 2126-00XX.

*Type of Request:* New collection.

*Respondents:* For-hire motor carriers, brokers and freight forwarders.

*Estimated Number of Respondents:* 22,300.

*Estimated Time per Response:* 15 minutes per response.

*Expiration Date:* N/A.

*Frequency of Response:* On occasion.

*Estimated Total Annual Burden:* 5,575 hours [22,300 annual responses × 0.25 hours = 5,575].

*Public Comments Invited:* You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the performance of FMCSA's functions; (2) the accuracy of

the estimated burden; (3) ways for FMCSA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize or include your comments in the request for OMB's clearance of this information collection.

Issued under the authority delegated in 49 CFR 1.87 on: June 18, 2014.

**G. Kelly Regal,**

*Associate Administrator, Office of Research and Information Technology and Chief Information Officer.*

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**DEPARTMENT OF TRANSPORTATION**

**Federal Motor Carrier Safety Administration**

[Docket No. FMCSA-2014-0111]

**Hours of Service of Drivers: Application of Illumination Fireworks, LLC and ACE Pyro LLC, for Exemption From the 14-Hour Rule During Independence Day Celebrations**

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

**ACTION:** Notice of final disposition; grant of applications for exemptions.

**SUMMARY:** FMCSA announces its decision to grant exemptions to Illumination Fireworks, LLC and ACE Pyro, LLC (the applicants) from the requirement that drivers of commercial motor vehicles (CMVs) must not drive following the 14th hour after coming on duty. The exemptions will apply solely to the operation of 50 CMV drivers employed by the applicants in conjunction with staging fireworks shows celebrating Independence Day during the periods June 28-July 8, 2014, inclusive. During this period, the CMV drivers employed by the applicants will be allowed to exclude off-duty and sleeper-berth time of any length from the calculation of the 14 hours. These drivers will 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 Agency has determined that the terms and conditions of the limited 1-year exemptions will ensure a level of safety equivalent to, or greater than, the level of safety achieved without the exemptions.

**DATES:** The exemptions are effective during the periods of June 28 (12:01 a.m.) through July 8, 2014 (11:59 p.m.).

**FOR FURTHER INFORMATION CONTACT:** Ms. Pearlle 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).

**SUPPLEMENTARY INFORMATION:**

**Background**

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. 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 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). 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)).

**Request for Exemption**

Illumination Fireworks, LLC (USDOT 2326703) and ACE Pyro, LLC (USDOT 1352892) are fireworks display companies that employ CMV drivers who hold commercial driver's licenses with hazardous materials endorsements to transport Division 1.3G and 1.4G fireworks in conjunction with the setup of firework shows for Independence Day. The applicants seek exemptions from the 14-hour rule in 49 CFR 395.3(a)(2) so that drivers would be allowed to exclude off-duty and sleeper-berth time of any length from the calculation of the 14 hours. The

applicants state that the basis for their request is the existing FMCSA exemption granted to the American Pyrotechnics Association (APA) under Docket No. FMCSA-2007-28043, which exempts comparable fireworks companies from the 14-hour rule.

The applicants further state they are seeking HOS exemptions for the 2014 and 2015 Independence Day periods because compliance with the 14-hour rule would impose economic hardship on cities, municipalities, and themselves. Complying with the existing regulations means most shows would require two drivers, significantly increasing the cost of the fireworks display.

The applicants assert that without the extra duty-period provided by the exemption, safety would decline because firework drivers would be unable to return to their home base after each show should they have fireworks remaining after the display. They would be forced to park the CMVs carrying Division 1.3G and 1.4G products in areas less secure than the motor carriers' home base.

**Method To Ensure an Equivalent or Greater Level of Safety**

As a condition for maintaining the exemptions, each motor carrier would be required to notify FMCSA within 5 business days of any accident (as defined in 49 CFR 390.5) involving the operation of any CMVs under this exemption. The applicants advise they have never been in an accident. As additional support for the requested exemptions, the applicants contend that the nature and duties of APA CMV operators is exactly the same as the CMV operators it employs and they feel strongly that there will not be any decline in safety.

In the exemption request, the applicants assert 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. The applicants noted that during the 2013 Independence Day season, the furthest Illumination Fireworks or ACE Pyro CMV traveled from its home base was 150 miles, which involves a very small amount of driving compared to the distance traveled by companies covered by the APA exemption. At the site, they spend considerable time installing, wiring, and safety-checking the fireworks displays, followed by several

hours of 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.

A copy of the application for the exemptions is available for review in the docket for this notice.

**Public Comments**

On May 13, 2014, FMCSA published notice of this application, and asked for public comment (79 FR 27364). Three comments were received to the public docket. Mr. Thomas Ingraldi did not oppose or support the exemption. He stated that:

The overall log rules are not the problem. Only one rule hampers production and serves no purpose. This rule was to create circadian rhythms in drivers and failed miserably. That rule is the 14 hour clock. Remove that one rule and production increases because we can drive and sleep as our body needs not as the clock dictates.

Another respondent, S. Johnson opposed the exemption and stated, "There is NO reason the celebrations cannot be performed within the current driving and on duty regulations. No worker should perform over 14 hours per day. If additional hours are required, a second crew should be hired."

The Advocates for Highway and Auto Safety (Advocates) also opposed the exemption. Advocates contends that its arguments against the granting of the present exemption are almost identical to those provided in prior comments regarding similar applications for exemption filed by the American Pyrotechnics Association (APA). Because the present application relies almost entirely upon the APA exemption application process as a foundation for its application, Advocates sees no need to restate the arguments in their entirety.

Advocates further stated its concern with the safety record of ACE Pyro LLC's referring to the carrier's driver, vehicle, and hazardous materials out-of-service rates which have been above National averages. Advocates requested FMCSA exclude ACE Pyro LLC from the exemption if the agency decides to grant the exemption based on its questionable safety record. All comments are available for review in the docket for this notice.

**FMCSA Response to Public Comments and Agency Decision**

Prior to publishing the **Federal Register** notice announcing the receipt

of the applicants exemption request, FMCSA ensured that the motor carriers involved have a current USDOT registration, Hazardous Materials Safety Permit (if required), minimum required levels of insurance, and are not subject to any "imminent hazard" or other OOS orders. The Agency conducted a comprehensive investigation of the safety performance history of each applicant during the review process. As part of this process, FMCSA reviewed its Motor Carrier Management Information System (MCMIS) safety records, including inspection and accident reports submitted to FMCSA by State agencies, for each applicant motor carrier. The Agency also requested and received a records review of each carrier from the Pipeline and Hazardous Materials Safety Administration (PHMSA). Upon completion of this comprehensive review, the Agency concludes that the applicants 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 exemptions covering the operations of 50 CMV drivers employed by the applicants. However, the Agency limits the exemption to 2014 given the concerns expressed by the Advocates.

#### Terms and Conditions of the Exemption

##### *Period of the Exemption*

The exemptions from the requirements of 49 CFR 395.3(a)(2) are effective during the period of June 28 (12:01 a.m.) through July 8, 2014 (11:59 p.m.), inclusive.

##### *Extent of the Exemptions*

The drivers employed by the applicants are provided a limited exemption from the requirements of 49 CFR 395.3(a)(2). This regulation 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 the exemptions may exclude off-duty and sleeper-berth time of any length from the calculation of the 14-hour limit. The exemptions are contingent on each driver driving 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 exemption. The exemptions are 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*

The exemptions are contingent upon each carrier maintaining USDOT registration, a Hazardous Materials Safety Permit (if required), minimum levels of public liability insurance, and not being subject to any "imminent hazard" or other out-of-service (OOS) order issued by FMCSA. Each driver covered by the exemptions must maintain a valid CDL with the 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 exemptions are in effect, no State may enforce any law or regulation that conflicts with or is inconsistent with the exemptions with respect to a person or entity operating under the exemptions (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. 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 two motor carriers and 50 drivers covered by the exemptions 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 exemptions. The FMCSA will immediately revoke the exemptions for failure to comply with its terms and conditions.

Issued on: June 20, 2014.

**Anne S. Ferro,**  
*Administrator.*

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**BILLING CODE 4910-EX-P**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[Docket No. FD 35841]

#### **Piedmont & Atlantic Railroad Co., Inc., d/b/a/ Yadkin Valley Railroad Company—Lease Exemption Containing Interchange Commitment—Norfolk Southern Railway Company**

Piedmont & Atlantic Railroad Co., Inc., d/b/a/ Yadkin Valley Railroad Company (YVRR), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to continue to lease from Norfolk Southern Railway Company (NSR) and operate approximately 93 miles of rail line that extend: (1) Approximately from milepost K–37.0 at Rural Hall, Forsyth County, N.C., to milepost K–100.2 at North Wilkesboro, Wilkes County, N.C.; and (2) approximately from milepost CF–0.0 at Mount Airy, Surry County, N.C., to milepost CF–29.8 at Rural Hall, Forsyth County, N.C.<sup>1</sup>

YVRR and NSR have recently amended their original lease agreement. The amendment, among other things, extends the term of the original lease agreement. YVRR states that both the original lease agreement and the amended lease agreement contain a lease credit arrangement, which the Board has previously identified as a type of interchange commitment in *Information Required in Notices and Petitions Containing Interchange Commitments*, EP 714 (STB served Sept. 5, 2013). Accordingly, YVRR has provided the required information set forth at 49 CFR 1150.43(h)(1). However, YVRR and NSR assert that, under the facts of this transaction, the lease credit arrangement does not constitute an interchange commitment subject to the interchange commitment rules and have contemporaneously filed a joint motion to strike the information required under 49 CFR 1150.43(h) that YVRR has provided in its notice. The Board will address the motion to strike in a separate decision.

<sup>1</sup> YVRR was granted authority to lease and operate the rail line in *Piedmont & Atlantic Railroad—Lease & Operation Exemption—L&S Holding Co.*, FD 32462 (ICC served Mar. 29, 1994) (original lease agreement). Subsequently, YVRR became the lessee (rather than the sub-lessee) of the line at issue.