

limited exemption from the requirements of 49 CFR 395.3(a)(2). This regulation prohibits a driver from driving after the 14th hour of 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. These drivers must continue to obtain 10 consecutive hours off duty prior to the 14-hour period, and remain subject to the 11-hour driving time limit, the 60- and 70-hour on-duty limits, and all other requirements of 49 CFR part 395.

Preemption

During the period 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 operating under the exemption (49 U.S.C. 31315(d)).

Notification to FMCSA

Under the exemption, each APA member company, firm and entity listed in the appendix to this notice must notify FMCSA within 5 business days of any accident (as defined in 49 CFR 390.5), involving any of the motor carrier's CMVs, operating under the terms of 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 closest to the accident scene,
- c. Driver's name and 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 total on-duty time period prior to the accident.

Termination

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. FMCSA will immediately revoke the exemption for failure to comply with its terms and conditions. Each motor carrier and each driver may be subject to periodic monitoring by FMCSA during the period of the exemption.

Issued on: June 12, 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 #
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

Surface Transportation Board

[STB Ex Parte No. 290 (Sub-No. 5) (2009-3)]

Quarterly Rail Cost Adjustment Factor

AGENCY: Surface Transportation Board, DOT.

ACTION: Approval of rail cost adjustment factor.

SUMMARY: The Board has approved the third quarter 2009 rail cost adjustment factor (RCAF) and cost index filed by

the Association of American Railroads. The third quarter 2009 RCAF (Unadjusted) is 0.938. The third quarter 2009 RCAF (Adjusted) is 0.426. The third quarter 2009 RCAF-5 is 0.403.

DATES: *Effective Date:* July 1, 2009.

FOR FURTHER INFORMATION CONTACT: Pedro Ramirez, (202) 245-0333. [Federal Information Relay Service (FIRS) for the hearing impaired: 1-800-877-8339.]

SUPPLEMENTARY INFORMATION:

Additional information is contained in the Board's decision, which is available on our Web site <http://www.stb.dot.gov>. Copies of the decision may be purchased by contacting the office of Public Assistance, Governmental Affairs, and Compliance at (202) 245-0235. Assistance for the hearing

impaired is available through FIRS at 1-800-877-8339.

This action will not significantly affect either the quality of the human environment or energy conservation.

Pursuant to 5 U.S.C. 605(b), we conclude that our action will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Decided: June 12, 2009.

By the Board, Acting Chairman Mulvey, and Vice Chairman Nottingham.

Jeffrey Herzig,

Clearance Clerk.

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