

DATES: Effective March 10, 2003.

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Media Bureau, (202) 418-1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MB Docket No. 02-91, adopted January 16, 2003, and released January 23, 2003. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., CY-B402, Washington, DC, 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail qualexint@aol.com.

List of Subjects in 47 CFR Part 73

Digital television broadcasting, Television.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.622 [Amended]

2. Section 73.622(b), the Table of Digital Television Allotments under Michigan, is amended by removing DTV channel 14 and adding DTV channel 35 at Cheboygan.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Division, Media Bureau.

[FR Doc. 03-1966 Filed 1-28-03; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 383

[Docket Nos. FMCSA-2001-9709 and FMCSA-00-7382]

RINs 2126-AA60 and 2126-AA55

Commercial Driver's License Standards, Requirements, and Penalties; Commercial Driver's License Program Improvements and Noncommercial Motor Vehicle Violations

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

ACTION: Final rule.

SUMMARY: The FMCSA amends its Commercial Driver's License (CDL) rules concerning disqualification of drivers to make a technical correction in response to a petition for reconsideration filed by the International Brotherhood of Teamsters, the Transport Workers Union of America, the Transportation Trades Department of the AFL-CIO, and the Amalgamated Transit Union (collectively, "the Petitioners"). The technical correction provides that disqualifications for offenses committed by a CDL holder while operating a non-commercial motor vehicle (non-CMV) would be applicable only if the conviction for such offenses results in the revocation, cancellation, or suspension of the CDL holder's license or non-CMV driving privileges. The agency denies the Petitioners' request to: shorten the disqualification periods driving a non-CMV while under the influence of controlled substances or alcohol; and establish a means to disqualify foreign drivers for offenses committed in a non-CMV in the country of domicile. The FMCSA believes these issues were adequately explained in the July 31, 2002, final rule concerning the CDL program, and that the petitioners have not presented any new information that would warrant reconsideration of the agency's decisions.

DATES: The effective date of this final rule is January 29, 2003.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Redmond, Office of Safety Programs, (202) 366-9579, Federal Motor Carrier Safety Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Section 201(b) of the Motor Carrier Safety Improvement Act of 1999 (MCSIA) (Pub. L. 106-159, 113 Stat. 1759) requires that the FMCSA issue regulations providing for the disqualification of CDL holders who are convicted of a serious offense involving a non-CMV that results in the revocation, cancellation, or suspension of the person's driver's license, or a drug or alcohol related offense involving a non-CMV. The MCSIA also requires FMCSA to establish minimum disqualification periods for non-CMV offenses based on the seriousness of the offense. However, the disqualification periods for non-CMV offenses must not

exceed the disqualification periods for offenses involving a CMV.

On July 31, 2002, the FMCSA published a final rule (67 FR 49742) implementing several MCSIA provisions concerning the CDL program, including the requirements of section 201(b).

Petition for Reconsideration

On August 30, 2002, the Petitioners requested that the agency reconsider three issues covered in the final rule. A copy of the petition is in both of the dockets identified at the beginning of this notice. The following is a summary of the three issues raised by the petitioners, followed by the FMCSA's response.

Issue 1: Disqualification Periods for Driving Under the Influence (DUI).

The Petitioners believe the disqualification periods for driving under the influence of controlled substances or alcohol are excessive and can result in unfair sanctions against CDL holders by potentially disqualifying them from working in the motor carrier industry for life. The Petitioners argue that the disqualification periods are significantly longer than State penalties and that the States generally do not impose lifetime disqualification for second offenses.

FMCSA Response: The FMCSA denies the Petitioners' request to shorten the disqualification periods established by the July 31, 2002, final rule. Section 201(b) of the MCSIA clearly provides FMCSA with the statutory authority to establish disqualification periods for DUI offenses committed by CDL holders while operating non-CMVs, that are identical to the disqualification periods for DUI offenses committed while operating a CMV. Although the FMCSA could have proposed and adopted less stringent penalties, the agency chose to impose the maximum penalties provided by the statute to ensure the highest level of safety. To achieve our safety objectives, we must disqualify CDL holders who represent an unacceptable safety risk to the motoring public by failing to refrain from the use of controlled substances, and consuming alcoholic beverages prior to driving a motor vehicle. There is no readily apparent reason why the agency should consider DUI committed by a professional CMV driver to be less severe when committed in a non-CMV during off-duty hours, than in a CMV while on duty. The conviction for such a serious offense in the non-CMV suggests that the CDL holder is more likely to commit the same offense in a CMV, than a CDL holder who has never committed such an offense. The FMCSA