

3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

#### List of Subjects in 47 CFR Part 73

Radio broadcasting.

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:** Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

#### § 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Oklahoma, is amended by removing Channel 268A at Nowata and by adding Collinsville, Channel 268C3.

Federal Communications Commission.

**John A. Karousos,**

*Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 95-16116 Filed 6-29-95; 8:45 am]

BILLING CODE 6712-01-F

#### DEPARTMENT OF TRANSPORTATION

#### Federal Highway Administration

#### 49 CFR Part 383

[FHWA Docket No. MC-95-16]

#### Commercial Driver's License; Waiver for Pyrotechnics Industry

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice of final disposition.

**SUMMARY:** The FHWA is issuing its decision generally denying a waiver from the commercial driver's license (CDL) regulations (49 CFR Part 383) to certain drivers employed by the pyrotechnics industry. The FHWA is granting alternate relief which would enable a willing State to substitute, in very limited circumstances, demonstrated training for the requirement of a written hazardous materials endorsement examination. The American Pyrotechnics Association submitted a petition on March 6, 1995, requesting waivers from the CDL testing and licensing standards for certain drivers transporting fireworks to displays during the period of Independence Day celebrations. Under the notice of petition, request for comments, issued May 10, 1995 (60 FR 24820), part-time drivers who have an otherwise valid driver's license and a good driving record, as well as licenses or permits issued by applicable State or

local agencies certifying that they are approved pyrotechnic operators, would have been eligible for a waiver from the CDL standards. As proposed, States would have been authorized to issue waivers for the transportation of less than 500 pounds of fireworks classified as DOT Class 1.3G explosives, from June 30 through July 6 of each year, provided that the vehicles transporting such fireworks had a gross vehicle weight rating (GVWR) of less than 10,001 pounds and were operated within 300 miles of the site of origin. The FHWA requested public comment on whether, if granted, the proposed waiver would be contrary to the public interest or diminish the safe operation of commercial motor vehicles. The comment period closed on June 9, 1995. Based upon the information submitted by commenters, and a late rebuttal to the adverse comments presented on behalf of the petitioners, the FHWA has concluded that it does not have the requisite empirical evidence available to make the safety finding necessary to grant a full waiver from the CDL provisions. Nevertheless, the FHWA will allow States to substitute an alternate demonstration of knowledge for certain hazardous materials endorsement testing provisions, provided that drivers availing themselves of this relief obtain an otherwise valid CDL and have completed appropriate hazardous materials training that meets the standards adopted by the Research and Special Programs Administration (RSPA) at 49 CFR 172.704. Consequently, the petition is denied except to this very limited extent.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert Redmond, Office of Motor Carrier Standards, (202) 366-4001, or Mr. Raymond W. Cuprill or Mrs. Allison Smith, Office of the Chief Counsel, HCC-20, (202) 366-0834, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW, Washington, DC 20590-0001. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

#### SUPPLEMENTARY INFORMATION:

##### Background

The Commercial Driver's License (CDL) regulations, issued pursuant to the Commercial Motor Vehicle Safety Act of 1986 (CMVSA) (Title XII, Pub. L. 99-570, 100 Stat. 3207, 3207-170) (49 U.S.C. 31502), are found at 49 CFR Part 383 (1994). Section 383.23 of the regulations sets forth the general rule that no person shall operate a commercial motor vehicle (CMV) unless

such person (1) has taken and passed a knowledge test and, if applicable, a driving test, which meets Federal standards, and (2) possesses a CDL, which is evidence of having passed the required tests. These Federal standards ensure that each driver of a CMV: (1) has a single driver's license and a single driving record, (2) is tested for the knowledge and skills needed to drive a vehicle representative of the vehicle that he/she will be licensed to drive, and (3) is disqualified from driving a CMV when convicted of certain criminal offenses or traffic violations. Drivers operating CMVs that haul hazardous materials requiring placarding are also required to take and pass a specialized knowledge test to obtain a hazardous materials endorsement to their licenses.

The term "commercial motor vehicle" is defined to include, a motor vehicle:

(1) With a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a GVWR of more than 10,000 pounds; or

(2) With a GVWR of 26,001 or more pounds; or

(3) Designed to transport 16 or more passengers, including the driver; or

(4) Used in the transportation of quantities of hazardous materials which require the vehicle to be placarded under the Hazardous Materials Transportation Regulations (49 CFR part 172, subpart F), 49 CFR 383.5 (1994).

#### Waivers

Section 12013 of the Commercial Motor Vehicle Safety Act of 1986 (the Act) authorizes the Secretary of Transportation to waive any class of drivers or vehicles from any or all of the provisions of the Act or the implementing regulations if the Secretary determines that the waiver is not contrary to the public interest and does not diminish the safe operation of commercial motor vehicles. The regulatory procedures governing the issuance of waivers are found at 49 CFR 383.7 (1994). The authority to issue waivers has been delegated to the FHWA at 49 CFR 1.48 (1994).

#### Petition

The American Pyrotechnics Association, a non-profit group representing the pyrotechnics industry, petitioned the FHWA to reconsider its previous determinations,<sup>1</sup> and grant a

<sup>1</sup> The FHWA had denied a petition for a CDL waiver filed by the American Pyrotechnics Association. *In the Matter of American Pyrotechnics Association*, Petition No. 91-03, May 3, 1991. See also, Administrator Larson's letter dated July 5, 1991, denying the American Pyrotechnics Association's request for reconsideration. Both of these documents are available for inspection and copying from the docket file MC-95-16.