



Department of Secretary of State Bureau of Motor Vehicles

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Dockets Operations
U.S. Department of Transportation
1200 New Jersey Avenue SE, West Building, Ground Floor
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Comments on Docket No. FMCSA-2025-0622: Restoring Integrity to the Issuance of Non-Domiciled Commercial Drivers Licenses (CDL)

Dear Dockets Operations:

The Department of Secretary of State and the Bureau of Motor Vehicles (BMV) of the State of Maine submit these comments voicing our strong opposition to the above-referenced Interim Final Rule “Restoring Integrity to the Issuance of Non-Domiciled Commercial Drivers Licenses (CDL)”, by the Federal Motor Carrier Safety Administration (“FMCSA”)¹.

Maine’s Bureau of Motor Vehicles (BMV) serves the residents of the State and all users of Maine highways by qualifying and licensing drivers and by issuing state credentials and maintaining records of driver history, vehicle ownership, and vehicle registration. Under the auspices of the Secretary of State, the BMV provides various motor vehicle registration, license, and title services to the residents of Maine throughout the State. The BMV ensures that applicants applying for operator’s licenses meet all federal or state eligibility criteria and have the ability, knowledge, and necessary skills for safe vehicle operation; investigates and licenses motor vehicle and trailer dealers; conducts hearings on violations of motor vehicle laws to determine if the individual’s privilege to operate or register a vehicle should be suspended, withheld, or revoked, and determines when reinstatement is permissible. In a rural state such as Maine, where public transportation is scant, distances are long, and the ability to drive legally is typically essential both for employers to have access to a workforce and also for individuals to be able to support themselves and attend to the basic needs of their families, the BMV has an interest in any federal rules impacting Maine residents’ ability to drive legally, such as this IFR.

¹ Hereinafter referred to in this comment as “the IFR.”

We oppose this rule both because of the process by which it was issued, and for its substance. The IFR harms employers who rely on immigrant non-domiciled CDL holder employees, and those immigrant non-domiciled CDL holders² for whom this emergency rule is an existential threat to their livelihoods, to their ability to support themselves and their families, and contribute economically in their Maine communities.

I. The procedure used in issuing the IFR was improper

A. The FMCSA bypassed legally required consultation with the States.

Title 49 USCA §31308 states, in its very first sentence, that only “(a)fter consultation with the States”, shall the Secretary of Transportation issue regulations guiding eligibility for and issuance of CDLs. Indeed, the preamble to the IFR itself acknowledges that the Secretary of Transportation shall issue regulations “after consultation with the States”.³ Despite that, not only were States not consulted, they were notified for the first time of the new IFR only via a live-streamed press conference on Friday, September 26, 2025 announcing the IFR and its effective date the following Monday, September 29, 2025. The justifications proffered in the IFR for failing to consult with the States are not sufficient. As the D.C. Circuit Court of Appeals noted in its order granting an emergency stay of the IFR, the FMCSA’s justifications for bypassing consultation are not grounded in the statute and are likely to fail on the merits.⁴

B. The IFR bypassed the usual PFR “notice and comment” rulemaking period without legitimate justification.

The justifications provided by the FMCSA for bypassing the usual notice and comment period offered *before* a new regulation is to take effect are specious. For example, the IFR preamble notes that it isn’t possible to vet foreign domiciled CDL applicant’s driving records for the past 10 years because their driving histories abroad are not accessible.⁵ This ignores the fact that for years, until issuance of this IFR, federal regulations permitted immigrants holding a valid, unexpired USCIS employment authorization document (EAD) to obtain for a non-domiciled CDL.⁶ Noncitizens with an EAD typically have been living in the U.S. long-term with legal statuses such as pending permanent residency or asylum applications or Temporary Protected Statuses. As such, they often have years of driving history in the U.S. that can be verified based on their REAL ID-compliant or standard driver’s licenses issued to them in the States where they have resided. Underscoring the disingenuousness of this argument is the fact that the IFR would allow only three types of foreign domiciled noncitizens to be eligible for a non-domiciled CDL. Two of those categories, H-2A seasonal agricultural workers and H-2B non-agricultural

² Our opposition to the IFR includes the impact it has regarding the process of issuing, and the harm caused to holders of, non-domiciled Commercial Learner’s Permits (CLPs) but in this comment we use “CDL” to include both CDLs and CLPs, as appropriate.

³ <https://www.federalregister.gov/d/2025-18869/p-88>

⁴ Jorge Rivera Lujan et al. v. FMCSA et al., U.S. Court of Appeals for the District of Columbia Circuit, Case #25-1215, Document #2145204 (11/13,2025). (Hereinafter Lujan v. FMCSA)

⁵ <https://www.federalregister.gov/d/2025-18869/p-129>

⁶ 49 CFR §383.71(f)(2)(i), version in effect prior to the IFR’s publication. Non-domiciled CDL applicants of course must have met all other eligibility and testing requirements before they would be issued a CLP or CDL.

seasonal workers, typically are issued visas for summer or winter seasons, returning to their home countries in between their temporary stays. At least in Maine, H-2A and H-2B visa holders, who retain their residences abroad, are far less likely to obtain a standard driver's than are longer-term residents who have a USCIS issued EAD. If Maine's experience is true nationwide, vetting the driver history of the very H-2A and H-2B visa holders the IFR proposes to allow to get non-domiciled CLPs is more out of reach than for holders of EADs.

Additionally, the IFR cites that a prior "notice and comment" period would have caused a surge in non-domiciled CDL applicants, as if such a surge of foreign born applicants would *per se* create a risk to public safety, ignoring the fact that any applicant must receive actual driving school training and on the road experience in commercial trucks and other commercial vehicles, successfully pass an exam before being issued a CLP, and successfully pass their CDL road test. Drivers hoping to find a job and economic opportunities via a non-domiciled CDL typically invest extensive time and money (CDL driving schools can cost thousands of dollars) to get the required knowledge and driving experience before they reach the stage of getting a non-domiciled CDL. And of course, SDLAs will also review their available prior driver history and other requirements before a prospective foreign-born person would be found eligible for a non-domiciled CDL. Getting a CDL takes planning and time. The fear of a harmful "surge" with a negative public safety impact as a result of a typical 60-day comment period prior to the rule's publication is disconnected from reality.

The FMCSA's other justifications similarly fail, and the agency should have issued a PFR, not an IFR, in order to allow for advance public notice and comment prior to, rather than following, the rule's promulgation. Prior public comment would also have allowed State driver license agencies (SDLA)'s to plan for a potential orderly transition before the effective date of the rule change.

II. The IFR is arbitrary and capricious.

One need look no further to see the lack of justification for this IFR than the preamble's discussion of its "Benefits", where the IFR notes that "(t)here is not sufficient evidence, derived from well-designed, rigorous, quantitative analyses, to reliably demonstrate a measurable empirical relationship between the nation of domicile for a CDL driver and safety outcomes in the United States such as changes in frequency and/or severity of crashes or changes in frequency of violations."⁷ It goes on to conclude "(g)iven insufficient evidence, a direct quantitative estimate of the potential safety benefits resulting from this IFR cannot be developed."⁸

Moreover, while the FMCSA's own data reveals that holders of non-domiciled CDLs represented about 5% of all CDL holders in 2024,⁹ their data also showed as of September 26, 2025 – just before the IFR's issuance – there were 2,399 fatal crashes involving citizen and

⁷ <https://www.federalregister.gov/d/2025-18869/p-195>

⁸ <https://www.federalregister.gov/d/2025-18869/p-198>

⁹ <https://www.federalregister.gov/d/2025-18869/p-190>

noncitizen commercial drivers of large trucks and buses in 2025.¹⁰ Of these, the IFR identifies just 5 of these tragedies – or 0.21% of the identified fatal crashes - to blame non-domiciled CDL holders, typically immigrants with EADs, as an imminent “threat to public safety and direct threat to national security.”¹¹ Apart from the fact that over 99% of the fatal crashes in 2025 were apparently caused by holders of regular CDLs, these isolated anecdotes do not explain any connection between the drivers’ immigration status and the cause of the crashes, and FMCSA acknowledges, as noted above, that it lacks any reliable data demonstrating that the selected category of noncitizens is more likely to be involved in fatal crashes. This IFR ignores the rigorous safety requirements already embedded in CDLs, such as the mandatory skills and knowledge test or the disqualification of drivers with serious traffic violations.¹² Rather than consider the efficacy of these measures, or introduce proposed additional safety measures that would apply to all CDL holders, not just those with non-domiciled CDLs, FMCSA arbitrarily aims at certain immigration statuses without providing any rational, nondiscriminatory connection between these targeted groups and road safety.¹³

Furthermore, the rule change has an outsized impact on employers needing CDL drivers, and of those whose livelihoods depending on continuing to hold their non-domiciled CDL. The FMCSA estimates in the IFR’s preamble that approximately 200,000 immigrants nationwide currently have non-domiciled CDLs, and that by restricting future eligibility only to those with H-2A, H-2B, or E-2 nonimmigrant visas, about 194,000 individuals – ie. 97% of current non-domiciled CDL holders - will lose eligibility.¹⁴ In Maine, that number is 100%. None of Maine’s current CDL holders, although they have EADs, hold H-2A, H-2B, or E-2 nonimmigrant visas as the IFR would require. The economic toll in Maine as a result of this change will be significant, not only for those who will lose access to the livelihoods opened up by their non-domiciled CDLs, but also for Maine’s employers who count on them to help make up for a chronic shortage of workers with CDLs.

When assessing the costs of this rule change, the IFR addresses the potential impact on commercial freight market, and essentially deems it negligible.¹⁵ However, the FMCSA makes no assessment at all of the impact the IFR would have in the many other sectors where drivers need CDLs.¹⁶ In Maine, for example, a shortage of school bus drivers drove the state’s largest school district to launch a CDL course approved by Maine’s BMV. Many of its graduates have been immigrants who eventually succeeded in passing all the eligibility and testing requirements to be issued non-domiciled CDLs, greatly alleviating the Portland School District’s bus driver

¹⁰ *Crash Statistics*, FED. MOTOR CARRIER SAFETY ADMIN. (Sept. 26, 2025), https://ai.fmcsa.dot.gov/crashstatistics?tab=Summary&type=&report_id=1&crash_type_id=1&datasource_id=1&time_period_id=2&report_date=0&vehicle_type=2&state=NAT&domicile=ALL&measure_id=1&operation_id=null

¹¹ Restoring Integrity to the Issuance of Non-Domiciled Commercial Drivers Licenses (CDL), 90 Fed. Reg. 46514 (to be codified at 49 C.F.R. 383 and 384).

¹² 49 CFR 383.23; 49 CFR 383.51.

¹³ *Motor Vehicle Mfrs. Ass’n v. State Farm Mut. Auto. Ins.*, 463 U.S. 29, 43 (1983) (finding that the agency must articulate a “rational connection between the facts found and the choice made”).

¹⁴ <https://www.federalregister.gov/d/2025-18869/p-178> .

¹⁵ <https://www.federalregister.gov/d/2025-18869/p-190> , stating “FMCSA believes there will be a limited economic impact on the freight market and motor carriers.”

¹⁶ See Hugh Cameron, *America Doesn’t Have Enough Truck Drivers*, NEWSWEEK (Jul. 10 2025), <https://www.newsweek.com/america-trucking-shortage-logistics-supply-chain-2097123>.

shortage.¹⁷ Eliminating these immigrants' eligibility to renew their non-domiciled CDLs will reverse progress made and exacerbate still existing bus driver shortages in many Maine school districts. The IFR will also impact public transit services. Maine's largest public transit system would lose 10% of its bus drivers under this IFR.¹⁸ Maine's construction sector, its logging industry, municipalities, and snow plow and hauling operations are just a few of the many other sectors that will feel the brunt of a reduced number of CDL drivers under this IFR, and none of these are considered in the IFR's assessment of the rule's impact, which only addresses the "commercial freight market."

In addition, the BMV is aware anecdotally that Maine's non-domiciled CDL holders not only are employed by others as CDL drivers, but also that some have purchased their own freight trucks and have started their own businesses. Whether employed by others, or self-employed, these immigrant non-domiciled CDL holders are contributing to our State's economy and communities. This rule, with no evidence that it will improve public safety, strips hard-working immigrants of their ability to support their families, and spend money in their local economies, with no sound rationale.

For all these reasons, Maine's Department of Secretary of State and Bureau of Motor Vehicles oppose this IFR.

Sincerely,



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¹⁷ <https://www.pressherald.com/2025/09/22/maine-schools-struggling-to-hire-bus-drivers/>

¹⁸ <https://www.pressherald.com/2025/11/12/federal-cdl-rule-change-leaves-maines-immigrant-drivers-and-employers-in-limbo/>