CLIENT ALERTS & INSIGHTS

Non-Domiciled CDLs – FMCSA Final Rule and its Operational Impacts

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Key Takeaways

- The FMCSA issued its Final Rule, effective March 16, 2026, narrowing eligibility for non-domiciled commercial driver's licenses ("CDLs") and learner's permits ("CLPs") to certain visa holders, which impacts how State Driver's License Agencies ("SDLAs") issue these credentials.
- While the Final Rule does not impose additional requirements on motor carriers, freight brokers or their shipper clients, motor carriers face increased operational risk if they employ non-domiciled drivers who do not meet the new visa requirements, which could lead to driver shortages and service disruptions.
- Motor carriers can promptly review driver qualification files and immigration documentation to identify drivers who may become ineligible under the new rule, allowing time to adjust staffing and maintain compliance. Brokers and shippers can also monitor carrier compliance but generally do not need to amend existing contracts. The rule is subject to ongoing legal challenges, so further changes or delays are possible.

The Final Rule follows the FMCSA's September 29, 2025 Interim Final Rule on non-domiciled CDLs and CLPs. The Final Rule and Interim Final Rule are materially identical. Our team's bulletin on the Interim Final Rule can be found here. Under the Final Rule, eligibility for a non-domiciled CDL or CLP is restricted to non-immigrants with H-2A, H-2B, and E-2 visas who are authorized to work in the U.S. but remain domiciled elsewhere. The Final Rule does not require SDLAs to cancel currently valid non-domiciled CDLs or CLPs issued under the previous framework. These new restrictions will apply to CDL and CLP issuance and renewals going forward.

How Does the Final Rule Impact Motor Carriers?

Motor carriers remain responsible for engaging qualified drivers consistent with the Federal Motor Carrier Safety Regulations ("FMCSRs"). The Final Rule does not change this responsibility, but it does introduce complexity as to which CDLs and CLPs may be valid for non-domicile drivers. Simply put, if a motor carrier uses a driver who holds a non-domiciled CDL or CLP but who does not hold visas required by the Final Rule, then the driver will not be able to renew his or her CDL or CLP. To stay ahead of adverse operational consequences, motor carriers will be well served to review driver qualification files ("DQFs") and driver immigration documentation, as applicable, to determine whether drivers will be ineligible to renew their CDLs or CLPs. If a DQF includes a non-immigrant visa other than those permitted by the Final Rule, then the motor carrier will be on notice that the driver cannot renew the license. This will necessarily affect the driver's ability to work at that time. Reviewing DQFs now will offer motor carriers time to manage compliance and operational capacity.

How Does the Final Rule Impact Intermediaries and Shippers?

The Final Rule does not apply to freight brokers or shippers. However, as direct or indirect purchasers of motor carrier services, brokers and shippers could experience service failures in load acceptance or timely delivery if a selected motor carrier utilizes many non-domiciled drivers who are ultimately ineligible for CDL or CLP renewal. Despite this potential, brokers and shippers are cautioned to avoid overreach in managing those third-party relationships. Today, most brokers and shippers that procure motor carrier services under contract already require their motor carriers to comply with applicable laws and regulations. Indemnification provisions are often triggered by breach of those representations or simply by legal non-compliance. Those terms remain applicable under the Final Rule since they in no way change driver qualification requirements under the FMCSRs. Thus, the Final Rule should not generally require most brokers and shippers to amend contract terms with their motor carriers.

What's Next for the Final Rule?

The Final Rule goes into effect on March 16, 2026, although delay is entirely possible. The Interim Final rule received thousands of comments during rulemaking only to be later subject to an administrative stay. The stay and further review followed the U.S. Court of Appeals for the District of Columbia's determination that the petitioners who challenged the Interim Final Rule demonstrated a strong likelihood of success on the merits of their challenge. Specifically, the petitioners appeared likely to prevail in establishing that the FMCSA: (1) failed to consult with the States before prescribing the CDL/CLP standards; (2) did not satisfy the good-cause exception to issue the Interim Final Rule without notice and comment; and (3) acted arbitrarily and capriciously in issuing the Interim Final Rule. Shortly after the FMCSA published the Final Rule, additional petitioners requested review of the Final Rule. The U.S. Court of Appeals for the D.C. Circuit consolidated the petitions last week. As the terms of the Final Rule nearly match the terms of the Interim Final Rule, the Final Rule may also be stayed while the courts consider its legality. Motor carrier confidence in driver onboarding practices, DQF records and compliance protocols remains of paramount importance in this time of heightened scrutiny.

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