

The Honorable Sean Duffy  
Secretary  
U.S. Department of Transportation  
1200 New Jersey Avenue, S.E. Washington, DC 20590

Dear Secretary Duffy:

I write to bring your attention to a significant issue arising from the Department of Transportation's final rule, *Restoring Integrity to the Issuance of Non-Domiciled Commercial Drivers Licenses (CDL)*, issued by the Federal Motor Carrier Safety Administration (FMCSA), Docket Number FMCSA-2025-0622.

Since the rule took effect on March 16, 2026, citizens of the Compact of Free Association (COFA) Nations—the Federated States of Micronesia (FSM), the Republic of the Marshall Islands, and the Republic of Palau—residing in certain U.S. states have reported that their CDLs have been revoked, downgraded, or denied for renewal. While the rule was promulgated as part of a broader effort to strengthen oversight of non-domiciled CDLs and enhance roadway safety, I am very concerned that the final rule does not provide a durable or uniform pathway for citizens of the Freely Associated States (FAS) to access CDLs. This problem requires correction to allow FAS citizens to continue to obtain and renew CDLs.

Under the Compacts of Free Association, citizens of these three nations are permitted to live and work in the U.S. indefinitely without a visa. The special statutory and legal authority places COFA citizens in a unique category under U.S. law that has been in place since 1986 that does not align with traditional nonimmigrant visa classifications. In practical terms, these individuals are lawfully present, work-authorized residents whose status is more analogous to lawful permanent residents than to temporary visa holders.

However, the final rule limits eligibility for non-domiciled CDLs to individuals who can present documentation tied to specific and narrow employment-based visa categories – namely H-2A, H-2B, and E-2 classifications. Because COFA citizens are not required to obtain visas to live and work in the United States, they are unable to meet this requirement despite their lawful status and statutory authorization to work. As a result, the rule effectively excludes them from obtaining or renewing non-domiciled CDLs and is thus inconsistent with U.S. law.

The rule, issued on February 13, 2026, does explicitly acknowledge this issue, stating generally that the FMCSA “understands the lawful presence of the Citizens of the FAS,” but then declining to provide clarity or a clear regulatory carve-out. Instead, DOT indicates that it will address FAS citizens through state-specific exemptions.

This approach creates uncertainty for states, employers, and FAS citizens, and risks inconsistent treatment across jurisdictions. It also leaves many lawfully present, work-authorized individuals without a clear pathway to obtain or retain CDLs, particularly in states that have not sought or received exemptions. This includes FAS citizens across multiple sectors in the U.S. economy, including those providing services to the U.S. federal government, including the U.S. military. Further, the state exemption process can take many months; the pending exemption application that the rule points to as an example has been pending since September 2024. Absent corrective action, this rule risks undermining longstanding U.S. commitments under the COFA and limiting access to lawful employment opportunities for individuals who are authorized to live and work in this country.

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Additional information is available at the Department of Justice, Washington, DC.*

Accordingly, I respectfully urge the Department to take prompt action to address this issue. This could include issuing interpretive guidance or initiating a rulemaking to revise 49 C.F.R. § 383.5 to expressly include COFA citizens lawfully living and working in the United States within the definition of “evidence of lawful immigration status.” For example, the regulation could recognize a valid passport issued by a Freely Associated State together with a Form I-94 documenting admission under COFA (e.g., CFA/FSM, CFA/RMI, CFA/PAL) as sufficient documentation.

Such action would align the regulation with existing federal law, uphold the spirit of the COFA, and ensure that lawfully present, work-authorized individuals are not excluded from CDL eligibility – while maintaining the Department’s core safety objectives.

Thank you for your attention to this matter. I would welcome the opportunity to work with the Department to ensure that implementation of this rule reflects both our shared commitment to safety and our legal obligations under U.S. law.

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