



U.S. Department  
of Transportation

Federal Motor Carrier  
Safety Administration

Office of the Administrator

1200 New Jersey Ave, SE  
Washington, DC 20590

## **ACTION MEMORANDUM TO THE OFFICE OF MANAGEMENT AND BUDGET**

**From:** Jesse Elison  
Chief Counsel  
202-731-5320

**Prepared by:** Wendy Liberante  
Director, Office of Policy, Strategic Planning & Regulation  
202-366-1735

**Subject:** Requesting Emergency Clearance from OMB for a New Information Collection  
on Non-Domiciled Commercial Driver's License Records

### **ACTION REQUESTED**

The Federal Motor Carrier Safety Administration (FMCSA) requests the Office of Management and Budget (OMB) to provide an emergency clearance for a new information collection to support FMCSA's new requirements to retain records related to the issuance of non-domiciled Commercial Driver's Licenses (CDL).

### **SUMMARY**

FMCSA is requesting emergency clearance to ensure that States retain all documents involved in the licensing process for non-domiciled CLP and CDL holders for a period of no less than 2 years from the date of issuance (which includes amending, correcting, reprinting, or otherwise duplicating a previously issued CLP or CDL), transferring, renewing, or upgrading a non-domiciled CLP or CDL. If States do not retain this documentation, FMCSA is severely hindered in its efforts to ensure compliance with the regulatory requirements because States are unable to accurately determine the number of non-domiciled CLPs and CDLs they have issued, or to prove to FMCSA auditors that such CLPs and CDLs were properly issued.

### **BACKGROUND**

FMCSA is requesting emergency clearance because of a fast-moving White House initiative to ensure that drivers from foreign jurisdictions, other than those the Administrator has determined to have comparable testing and license standards to those in the United States, have both lawful presence and authorization for employment before a State may issue a non-domiciled CDL. Currently, the regulations focus only on lawful presence, but a recent audit of State Driver Licensing Agencies (SDLAs) has revealed systematic failures in the issuance process that have resulted in significant numbers of unqualified individuals being issued CDLs. A number of recent, high-profile crashes involving holders of non-domiciled CDLs have also highlighted the need to restrict the number of such license holders operating on the Nation's roadways. Some of these crashes involved CDL holders who were issued non-domiciled CDLs despite not meeting

the requirements of the current regulations, while others involved drivers who were issued CDLs in accordance with the regulations but nonetheless were not qualified to operate large commercial vehicles.

## **JUSTIFICATION FOR EMERGENCY PROCESSING**

FMCSA's primary mission is to ensure the safety of the Nation's roadways. Having recently become aware of the confusion in some States about the standards for issuing non-domiciled CDLs, as well as the recent incidences of crashes involving non-domiciled drivers, FMCSA must act expeditiously to ensure that States do not continue to license such drivers and begin taking steps to properly vet the existing holders of non-domiciled CDLs. These actions are expected to significantly improve the safety of commercial drivers in the United States.

FMCSA cannot reasonably comply with normal clearance procedures for this collection because revisions to the regulations are being issued as an interim final rule that will take effect upon publication. The interim final rule contains revisions to certain collection requirements, so FMCSA must obtain clearance for those requirements immediately. Pursuant to the Paperwork Reduction Act's emergency processing requirements as described in 5 CFR 1320.13, FMCSA has determined that the collection is 1) needed prior to the expiration of the time periods under start PRA processing and 2) the collection is essential to the mission of the agency. Further, FMCSA has determined that the agency cannot comply with the normal clearance procedures because public harm is reasonably likely to result if the normal clearance procedures are followed (see 5 cfr 1320.13(a)(2)(i)). Additionally, FMCSA is unable to consult with interested agencies and members of the public in order to minimize the burden of the collection of information at this time due to the expeditious nature of the interim final rule to address the risk of public harm.

As the recent, high-profile crashes caused by non-domiciled CDL drivers have shown, public harm is likely to result if normal clearance procedures are followed. These crashes resulted in the deaths of 12 people, with many more being injured. FMCSA was not previously aware of the extent of the dangers posed by non-domiciled drivers, nor was FMCSA aware until the recent annual audits of SDLAs that many were either not following the regulatory processes or that the existing regulations were insufficient to keep dangerous drivers off the Nation's roadways. Use of normal clearance procedures is reasonably likely to prevent or disrupt the collection of information because SDLAs will now be required to retain all documents involved in the licensing process for non-domiciled CLP and CDL holders for a period of no less than 2 years from the date of issuance (which includes amending, correcting, reprinting, or otherwise duplicating a previously issued CLP or CDL), transferring, renewing, or upgrading a non-domiciled CLP or CDL. FMCSA cannot require this unless an approved collection is in place.

It is imperative that FMCSA begin collecting this information as soon as the interim final rule is effective. FMCSA will continue to require SDLAs to collect the information on an ongoing basis until the end of the emergency approval period.

In addition to the emergency clearance, FMCSA will also complete the normal OMB review process by including the 60-Day Federal Register Notice in the relevant Interim Final Rule,

followed by publication of a 30-Day Federal Register Notice either as part of a Final Rule or in a separate Federal Register Notice.

## **RECOMMENDATION**

FMCSA recommends that OMB review and approve the new information collection to support FMCSA's new requirements to retain records related to the issuance of non-domiciled CDLs. Due to FMCSA's urgent need for this information to comply with new requirements in the impending interim final rule, FMCSA requests approval by close-of-business on September 17, 2025. This will allow FMCSA to begin collecting this information as soon as the interim final rule is effective.

### **Attachments**

1. Supporting Statement

### The Office of Management and Budget

APPROVED: \_\_\_\_\_

DISAPPROVED: \_\_\_\_\_

COMMENTS: \_\_\_\_\_

DATE: \_\_\_\_\_