

ORAL ARGUMENT NOT YET SCHEDULED  
No. 26-1032 (consolidated with No. 26-1046)

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**IN THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

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JORGE RIVERA LUJAN, ET AL.,

*Petitioners,*

*v.*

FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION, ET AL.,

*Respondents.*

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On Petition for Review of a Final Rule of the  
Federal Motor Carrier Safety Administration

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**BRIEF OF *AMICI CURIAE*  
TWENTY-FIVE MEMBERS OF CONGRESS  
IN SUPPORT OF PETITIONERS**

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## CERTIFICATE OF PARTIES, RULINGS, AND RELATED CASES

**Parties and Amici.** Except for *amici curiae*, all parties are listed in the Petition for Review.

**Action Under Review.** The action under review is the Final Rule, “Restoring Integrity to the Issuance of Non-Domiciled Commercial Drivers Licenses (CDL),” 91 Fed. Reg. 7,044 (Feb. 13, 2026).

**Related Cases.** Petitioners also challenged FMCSA’s Interim Final Rule, “Restoring Integrity to the Issuance of Non-Domiciled Commercial Drivers Licenses (CDL),” 90 Fed. Reg. 46,509 (Sep. 29, 2025). This Court is holding that challenge in abeyance, pending disposition of this petition for review. *See Order, Rivera Lujan v. FMCSA*, No. 25-1215 (D.C. Cir. Feb. 20, 2026) (consolidated with *King County v. FMCSA*, No. 25-1224 (D.C. Cir. Oct. 30, 2025)). Counsel is unaware of any other related cases.

Dated: June 22, 2026

/s/ Abby C. Wright  
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**STATEMENT REGARDING CONSENT TO FILE**

The undersigned counsel for *amici curiae* states that counsel for all parties have consented to the filing of this brief.

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## GLOSSARY

APA	Administrative Procedure Act
CDLs	Commercial Drivers Licenses
CMVSA	Commercial Motor Vehicle Safety Act
DACA	Deferred Action for Childhood Arrivals
EADs	Employment Authorization Documents
FMCSA	Federal Motor Carrier Safety Administration
IRCA	Immigration Reform and Control Act

## IDENTITIES AND INTERESTS OF *AMICI CURIAE*

*Amici* are twenty-five Members of Congress.<sup>1</sup> *Amici* submit this brief because—as Members of Congress—they have an institutional interest in defending Congress’s authority and vindicating the intent expressed in its statutes. The final rule that is the subject of this petition for review is an assault on that authority. It is inconsistent with both the scheme Congress put in place to ensure that commercial drivers are qualified to drive safely and its decision to enact a separate immigration scheme governing access to work authorization.

In this brief, *amici* present their unique perspective on the text and history of the Commercial Motor Vehicle Safety Act, the intersection of transportation and immigration law, and pending legislative proposals, all of which confirm that the agency has overstepped its statutory authority. *Amici* also have a special interest in the outcome of this case; they represent hundreds of thousands of constituents directly and indirectly harmed by the final rule, including DACA recipients, individuals who have been granted asylum, refugees, temporary protected status holders, and their families and neighbors. These

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<sup>1</sup> A full list of *amici* appears in the Appendix.

individuals are a key part of the American success story, and the decision of the Department of Transportation and the Federal Motor Carrier Safety Administration to deprive them of their livelihood finds no basis in statutory text or the transportation agencies' safety mission.<sup>2</sup>

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<sup>2</sup> No counsel for any party authored this brief in whole or in part. No person other than *amici* or their counsel contributed money intended to fund this brief's preparation or submission. *See* Fed. R. App. P. 29(a)(4)(E).

## INTRODUCTION AND SUMMARY OF ARGUMENT

In 1986, Congress passed the Commercial Motor Vehicle Safety Act (“CMVSA”) and granted the Secretary of Transportation clearly delineated authority to establish a safety and licensing regime for commercial drivers. That safety scheme creates uniform federal driving standards but entrusts issuing Commercial Drivers Licenses (“CDLs”) to the States. To end the practice of “State shopping” for CDLs, the CMVSA directed States to issue CDLs only to individuals “domiciled” in their State or individuals who are not domiciled in a State that issues CDLs. For decades, the Department of Transportation adhered to the CMVSA’s safety mandate, promulgating specific safety and driver-qualification standards. The Department stayed clear of immigration, which, by congressional design, was left to a separate statutory scheme administered by other agencies.

In 1999, Congress established the Federal Motor Carrier Safety Administration (“FMCSA”), *see* Motor Carrier Safety Improvement Act of 1999, Pub. L. No. 106-159, § 101(a), 113 Stat. 1748, 1750, and charged it with “the assignment and maintenance of safety as the highest priority, recognizing the . . . dedication of Congress to the furtherance of the

highest degree of safety in motor carrier transportation,” 49 U.S.C. § 113(b). Congress directed FMCSA to carry out the “duties and powers” of the CMVSA. *See* 49 U.S.C. § 113(f)(1); 49 C.F.R. § 1.87(e).

FMCSA now breaks from decades of agency practice implementing the CMVSA’s limited statutory charge to premiere a new role in immigration policy. Invoking “safety,” FMCSA has promulgated a sweeping new rule that bars entire classes of immigrants from CDL eligibility and sets up, in effect, a new immigration work-authorization scheme. *See* Restoring Integrity to the Issuance of Non-Domiciled Commercial Drivers Licenses (CDL), 91 Fed. Reg. 7,044 (Feb. 13, 2026) (Final Rule); *see also* 90 Fed. Reg. 46,509, 46,513 (Sep. 29, 2025) (purporting to find “good cause” to avoid notice-and-comment rulemaking). In all, the Final Rule bars some 200,000 commercial drivers from their livelihood, not because they failed any safety or licensing standard, posed any safety risk, or failed to follow any regulatory requirements, but because of their immigration status. Congress intended no such thing.

The Final Rule should be set aside for at least two reasons. *First*, the CMVSA provides no statutory authority for the Final Rule. That

much is clear from the law's text. By congressional command, FMCSA's mission is to ensure the safety of motor carriers and commercial vehicles, 49 U.S.C. § 113(b), and through the CMVSA, Congress conferred on FMCSA a suite of safety-related authorities that, quite understandably, do not address immigration. To eke from the statute's safety-focused text a rule about immigration status is contrary to the plain text of the statute and stretches the CMVSA beyond recognition. Congress did not secretly bestow novel work authorization authority over hundreds of thousands of immigrants when it directed the Secretary to issue regulations regarding "ensuring the fitness of an individual operating a commercial motor vehicle." 49 U.S.C. § 31305(a).

The CMVSA's history tells the same story. Congress established the modern work-authorization framework just a few days after it passed the CMVSA but kept the two statutory schemes distinct. The Final Rule is an unprecedented assertion of power based on an unprecedented theory, affecting hundreds of thousands of people and costing billions. Such an ambitious power grab requires clear statutory authorization. FMCSA has no such authority.

*Second*, the Final Rule is also invalid because it is arbitrary and capricious. Congress required FMCSA to assess drivers through safety-based criteria tied to driver knowledge, testing, and qualifications. The Final Rule abandons that framework, instead substituting categorical immigration-status exclusions untethered to demonstrated safety risk. The agency offers no sound factual basis for this move: it relies on a handful of “illustrative” crashes while admitting it lacks any way to put that data in context or show any heightened danger. It also ignores record evidence that the Final Rule may, in fact, negatively impact safety by shrinking the pool of qualified drivers, increasing fatigue, and disrupting essential transportation services. Its stated justifications—difficulty in verifying driver histories and purported State noncompliance—do not match the breadth of the exclusions, and the agency bypassed obvious alternatives. This mismatch reveals the agency’s true goal: to advance immigration policy and dress it up as safety policy.

FMCSA likewise gave short shrift to the reliance interests of tens of thousands of *amici*’s constituents, whose livelihoods depend on continued participation in the commercial driver workforce. The resulting disruption extends beyond individual workers, reverberating

across the local economies and industries that sustain *amici*'s districts. Taken together, these defects render the Final Rule unlawful under the Administrative Procedure Act ("APA").

## ARGUMENT

### **I. The Power to Restructure the Commercial-Driver Workforce Based on Immigration Status Rests with Congress.**

The CMVSA is a statute about commercial driving safety. Through its enactment, Congress put in place a series of requirements for commercial drivers and directed the Secretary of Transportation and subsequently FMCSA to promulgate specific safety regulations. Immigration status plays no role in the statutory scheme and indeed is not mentioned in the statute. Instead, the focus is on a driver's fitness to drive a commercial motor vehicle safely. Congress did not silently give FMCSA the power to pick immigration winners and losers via its CDL regulations. Because FMCSA lacks statutory authority to condition CDL eligibility on immigration status, this Court should vacate the Final Rule.

#### **A. No Provision of the CMVSA Provides Statutory Authority for the Final Rule.**

Congress has charged FMCSA with furthering "the highest degree of safety in motor carrier transportation." 49 U.S.C. § 113(b). That is

FMCSA's job. And it fulfills that job by administering a uniform national commercial driver licensing system under the CMVSA designed to ensure that drivers are properly tested and qualified and held to consistent standards across states. *See* 49 U.S.C. §§ 31302, 31305(a), 31308. To carry out that mechanism, Congress provides FMCSA authority to “prescribe regulations on minimum standards for testing and ensuring the fitness of” commercial drivers and for the “issuance of commercial drivers’ licenses and learner’s permits by the States.” *Id.* §§ 31305(a), 31308.

If the Final Rule's exclusion of hundreds of thousands of commercial drivers based on immigration status rests on specific statutory authority, FMCSA has not identified it. *See Chrysler Corp. v. Brown*, 441 U.S. 281, 304 (1979) (“[I]t is necessary to establish a nexus between the regulations and some delegation of the requisite legislative authority by Congress.”). The CMVSA is a narrowly circumscribed safety scheme, and it contains no grant of rulemaking authority that would permit FMCSA to promulgate an immigration-status rule. Each provision of the CMVSA granting rulemaking authority includes express language conferring specific directives to “prescribe” regulations. *See*,

e.g., 49 U.S.C. §§ 31303(c)(2) (notice period of previous employment), 31305(a) (minimum standards for testing and individual fitness), 31305(b)(2) (requirements for operating vehicles), 31306(b)(1)(A) (alcohol and controlled substances testing), 31310(c)(2) (disqualification period reductions). None concerns immigration.

FMCSA counters that it has “broad authority” under the CMVSA. 91 Fed. Reg. 7,046. But FMCSA can locate neither a broad grant of authority nor a specific statutory basis authorizing an immigration-status-based regulation. Nor could it; the CMVSA nowhere mentions immigration. And, indeed, although the CMVSA initially authorized the Secretary to “issue such regulations as may be necessary to carry out this title,” Pub. L. No. 99-570, tit. XII, § 12018(a), 100 Stat. 3207-170, 3207-187 (1986), Congress clarified in the 1994 recodification that any such authority is expressed through discrete, provision-specific delegations—not a single omnibus grant, Pub. L. No. 103-272, § 1(e), 108 Stat. 745, 1029 (1994) (recodifying without general rulemaking language). And such language could not, in any event, expand the agency’s statutory authority. *See Motion Picture Ass’n of Am. v. FCC*, 309 F.3d 796, 806 (D.C. Cir. 2002) (finding a similar provision to “carry out the provisions

of the Act” to be ancillary authority “akin to a necessary and proper clause,” not a “stand-alone basis of authority” (citation modified)).

The agency next invokes three provisions: Sections 31305(a), 31308, and 31311(a)(12)(B)(ii) of Title 49. *See* 91 Fed. Reg. 7,046. But those provisions cannot bear the weight FMCSA assigns. *See Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 412 (2024) (holding that courts must “exercise their independent judgment in deciding whether an agency has acted within its statutory authority”).

Section 31305(a) authorizes the Secretary to “prescribe regulations on minimum standards for testing and ensuring the fitness of an individual operating a commercial motor vehicle.” 49 U.S.C. § 31305(a). Congress expressly required individualized determinations of fitness; the Final Rule replaces that with a categorical disqualification based on a concept nowhere in the statute. *Id.* The Final Rule therefore rests on a premise Congress never adopted: that immigration status is an acceptable proxy for commercial driver safety. Accepting that false premise would allow the agency to invoke “safety” to disqualify drivers based on any number of unrelated characteristics—for example, drivers

residing in a particular State. Such absurd results demonstrate the error in the agency's authorization argument.

The surrounding statutory text confirms that conclusion. A statutory term is “given more precise content by the neighboring words with which it is associated.” *Fischer v. United States*, 603 U.S. 480, 487 (2024) (citation omitted). And an agency may not assign a term “a meaning so broad that it is inconsistent with the company it keeps.” *Id.* (citation modified). Here, the neighboring provisions all concern safety-based testing and qualification requirements: driver knowledge, road testing, hazardous-material competence, minimum passing scores, and related certification. *See* 49 U.S.C. § 31305(a).

Equally unsuccessful is FMCSA's invocation of Section 31308. That section authorizes “minimum uniform standards for the issuance” of CDLs, but those standards implement the substantive testing and qualification regime established in Section 31305. The section therefore governs the uniform administration of the CDL program; it does not expand the statute into a broader immigration-based eligibility system.

FMCSA's attempt to locate statutory support in Section 31311 similarly falters. Section 31311(a) broadly establishes a compliance

regime governing conditions for State participation in the CDL program. As explained in more detail below, one of the principal purposes of the CMVSA was to prevent the safety risks posed by individuals seeking multiple CDLs in different States to evade driving history requirements. Subsection (a)(12) protects against this danger. It has three subsections instructing States when they may grant CDLs: the first (A) covers individuals domiciled in the State, the second (B) covers individuals not domiciled in any State, and the third (C), added in 2012, covers individuals in the armed forces who are stationed in the State. *See* Pub. L. No. 112-196, § 2, 126 Stat. 1459, 1459 (2012) (amending 49 U.S.C. § 31311(a)(12)). In accordance with the broader provision, Section 31311(a)(12) thus governs administration of the licensing system at the State level and allocates authority among the States; it does not grant the agency authority to make eligibility for a CDL contingent on immigration status.

**B. Statutory History Likewise Demonstrates That the Final Rule Is Inconsistent with the CMVSA.**

The CMVSA's history further illustrates the distance between the statute Congress wrote and the Final Rule FMCSA has promulgated. Immigration and the CMVSA have been distinct from the beginning, and

the history of the CMVSA underscores that it was designed to achieve two *safety* goals: (1) to create uniform federal standards for driver qualifications; and (2) to prevent individuals from seeking CDLs from multiple States and thereby evading safe driving requirements.

1. *The CMVSA and the Modern Work-Authorization Framework Became Law Within Days of Each Other but Remained Distinct Statutes.*

In the span of a few weeks in 1986, Congress established the modern frameworks for both immigrant work authorization and national commercial driver licensing. Congress kept these two legal regimes conspicuously separate, and immigration status played no role in the CMVSA.

Driving came first. On October 27, 1986, the President signed the CMVSA into law. Pub. L. No. 99-570, tit. XII, 100 Stat. 3207-170 (1986). Although Congress had previously attempted to address commercial vehicle safety, rising accidents, injuries, and fatalities meant that “more need[ed] to be done.” S. Rep. No. 99-411, at 2 (1986); *accord* H.R. Rep. No. 99-901, at 2 (1986). Congress therefore sought to “prevent truck and bus accidents” by, as relevant here, “establishing national standards for commercial drivers’ licenses and requiring drivers to have a single

commercial license and driving record.” S. Rep. No. 99-411, at 1 (1986); *accord* H.R. Rep. No. 99-901, at 1 (1986). Failures in state licensing regimes drove the need for a single license. As a Senate report explained, a substantial minority of commercial drivers possessed multiple state-issued licenses. S. Rep. No. 99-411, at 3 (1986). Multiple licenses permitted a kind of forum shopping: interstate drivers could “spread their traffic violations over a number of licenses, and maintain a ‘good driver’ rating regardless of the number of violations.” *Id.* The CMVSA therefore insisted that “no person who operates a commercial motor vehicle shall at any time have more than one driver’s license.” Pub. L. No. 99-570, tit. XII, § 12002, 100 Stat. 3207-170 (codified as amended at 49 U.S.C. § 31302).

Immigration reform followed just eleven days later. On November 6, 1986, the President signed into law the Immigration Reform and Control Act (“IRCA”). Pub. L. No. 99-603, 100 Stat. 3359 (1986). That law amended the Immigration and Nationality Act, “which sets out the terms and conditions of admission to the country and the subsequent treatment of aliens lawfully in the country.” *Kansas v. Garcia*, 589 U.S. 191, 195 (2020) (citation modified). Before, “federal law left room for the States to

regulate” the employment of undocumented immigrants—rather as States took the lead in commercial driver licensing. *Id.* But unlike with the CMVSA (where Congress retained state authority), in IRCA, Congress “took a different approach” and established new federal rules for immigrant work authorization. *Id.* at 195–96 (discussing 8 U.S.C. § 1324a); *see, e.g., Wint v. Yeutter*, 902 F.2d 76, 77–78 (D.C. Cir. 1990) (describing one of IRCA’s work-authorization schemes).

It is a settled interpretive principle that when “Congress amends one statutory provision but not another, it is presumed to have acted intentionally” especially when “the provisions were ‘considered simultaneously when the language raising the implication was inserted.’” *Gross v. FBL Fin. Servs., Inc.*, 557 U.S. 167, 174–75 (2009) (quoting *Lindh v. Murphy*, 521 U.S. 320, 330 (1997)). Although the CMVSA did not amend a preexisting statute, the same reasoning applies here: both acts “had to have been in [Congress’s] mind” when passed, *Lindh*, 521 U.S. at 330, and Congress’s decision to leave immigration concerns fully in IRCA was intentional. Congress’s motivation in the CMVSA had nothing to do with immigration; the goal was to improve road safety by establishing a coherent national commercial driver

licensing system. *See* S. Rep. No. 99-411, at 1 (1986); H.R. Rep. No. 99-901, at 1 (1986). If Congress had wanted to muddle driver licensing with immigration policy, 1986 was the time to do it. Indeed, IRCA—because it focused on immigration—created the modern H-2A temporary agricultural worker visa, one of the few visa categories to which the Final Rule grants CDL eligibility. *See* Pub. L. No. 99-603, § 301, 100 Stat. 3359, 3411 (codified as amended at 8 U.S.C. § 1101(a)(15)(H)(ii)(a)); 49 C.F.R. §§ 383.5, 383.71(f)(3)(i)(B) (granting H-2A holders non-domiciled CDL eligibility). Yet there is not even a hint in text or history that Congress saw any connection between H-2A visas and CDLs.

The occasion on which Congress did revise commercial-driving rules to address immigration-related issues underscores FMCSA's lack of authority here. In 2006, Congress directed the Department of Transportation to “issue regulations to implement the recommendations contained in” a Department of Transportation Inspector General memorandum. Pub. L. No. 109-347, § 703(a), 120 Stat. 1943, 1944 (2006). That memorandum recommended stronger immigration *documentation* requirements for obtaining CDLs but said nothing about connecting CDL eligibility with specific immigration statuses. *See* U.S. Dep't of Transp.,

Off. Inspector General, *Need to Establish a Legal Presence Requirement for Obtaining a Commercial Driver's License* (June 4, 2004), <https://perma.cc/H8S8-JGLB>. To the contrary, the memorandum contemplated that “workers with temporary work visas . . . would be eligible to obtain a CDL.” *Id.* at 3–4. When Congress has addressed immigration-related issues in the CDL context, it has done so narrowly and focused on documentation—not categorical eligibility exclusions.

2. *Congress Created the CMVSA's Domicile Provision to Facilitate the One-License Rule, Not to Inject Immigration Policy into Commercial Driving.*

The CMVSA's history also defeats any contention that the law's reference to “domicile” is a backdoor authorization for immigration policy. As discussed above, the CMVSA's innovation was to insist that commercial drivers should have just one State-issued license at a time. *See* 49 U.S.C. § 31302. Earlier in the CMVSA's drafting, Congress had considered establishing a single, national commercial driving license. *Commercial Motor Vehicle Safety Act of 1985, Hearing Before the S. Comm. on Com., Sci., & Transp. on S. 1903*, 99th Cong. 7–10 (1986) (bill text). But because the as-passed Act kept a central role for States, a mechanism for determining which State would issue a driver's single

state license was needed. To enforce this single-license rule, Congress included a brief reference to driver domicile: A “State shall issue commercial drivers’ licenses only to those persons who . . . are domiciled in the State,” except for licenses issued to non-domiciliaries “in accordance with” regulations promulgated by the Secretary of Transportation. Pub. L. No. 99-570, tit. XII, § 12009(a)(12), 100 Stat. 3207-170, 3207-181 (codified as amended at 49 U.S.C. § 31311(a)(12)).

In implementing regulations from 1988, the Department of Transportation explained the simple way the new system would work. “A [commercial motor vehicle] operator will obtain his/her license in the State in which he/she is domiciled, except in the case of foreign drivers[.]” 53 Fed. Reg. 27,628, 27,635 (July 21, 1988). If the driver “move[d] (i.e., change[d] his/her domicile) from another State,” she would need to secure a new CDL from the new State of domicile. *Id.* This obligation for drivers was matched by an obligation for States, which should “[i]ssue CDLs only to persons domiciled in the State[,] except,” in certain circumstances, “persons domiciled in a jurisdiction of a foreign country.” *Id.* at 27,636. As FMCSA explained much later in a report to Congress, the domicile requirement ensured that each driver would have one state license and

one corresponding state record. *See* Fed. Motor Carrier Safety Admin., *The History of Domicile Requirements for Commercial Drivers: Report to Congress 2* (Mar. 2018), <https://perma.cc/V3RK-EKGQ>.

A 2012 amendment sheds more light on the CMVSA and domicile. As noted *supra* p. 12, Congress amended the domicile provision to create a narrow exception for military personnel whose duty station differed from their state domicile. This change “was designed to reduce unnecessary bureaucratic burdens on active-duty military personnel and veterans.” 81 Fed. Reg. 14,052, 14,055 (Mar. 16, 2016). Despite this opportunity to do so, in 2012 Congress again (just as in 1986) chose not to link immigration status with domicile.

Taken together, this history shows that “domicile” in the CMVSA is today—as it was in 1986—nothing more than an administrative mechanism for determining which State ought to issue a driver’s CDL.

**C. The Final Rule’s Sweeping Effects and Unprecedented Character Confirm That It Is Not Authorized by the CMVSA.**

As this Court has explained, “courts expect Congress to speak clearly if it wishes to assign to an agency decisions of vast economic and political significance.” *Save Jobs USA v. DHS*, 111 F.4th 76, 80 (D.C. Cir.

2024) (citation modified). As demonstrated, the text of the CMVSA does not give FMCSA the power it claims; that conclusion is further underscored by four features of the Final Rule.

*First*, the Final Rule’s “economic and political significance” is “staggering.” *Biden v. Nebraska*, 600 U.S. 477, 502 (2023) (citation modified). FMCSA trumpets that some 97% of non-domiciled CDL holders—194,000 out of 200,000—“will exit the freight market.” 91 Fed. Reg. 7,096. Even on FMCSA’s estimate, the lost wages for a “driver[] who will no longer be eligible for a non-domiciled CDL” will add up to “approximately \$16,000” annually. *Id.* at 7,097. This conservative assessment assumes (implausibly) that non-domiciled CDL holders will immediately find work that is almost as well paid as commercial driving. *See id.* Even accepting that estimate, when multiplied across 194,000 people, that is approximately \$3 billion in reduced wages every year.

The political significance of the Final Rule also cannot be overstated. Immigration policy—perhaps more so than almost any other topic—“has been a matter of . . . debate across the country.” *Biden*, 600 U.S. at 504 (citation modified). As the Supreme Court framed the inquiry in *Biden v. Nebraska*: “[I]magine . . . asking the [CMVSA’s] enacting

Congress [the] question.” Can the Department of Transportation use a safety statute to strip licenses from nearly two hundred thousand people, solely on the basis of immigration status? *Biden*, 600 U.S. at 504. As in that case: “We can’t believe the answer would be yes.” *Id.*

*Second*, the Final Rule “claim[s] to discover in a long-extant statute an unheralded power.” *West Virginia v. EPA*, 597 U.S. 697, 724 (2022) (citation modified). And “the want of assertion of power by those who presumably would be alert to exercise it, is ... significant in determining whether such power was actually conferred.” *FTC v. Bunte Bros.*, 312 U.S. 349, 352 (1941). Even though the CMVSA’s CDL scheme is decades old, neither the Department of Transportation nor FMCSA has ever conditioned eligibility for a CDL on possession of a particular visa type.<sup>1</sup> Yet in the Final Rule, FMCSA arrogates to itself the authority to determine who may obtain a CDL based on which type of work authorization they hold. As the Supreme Court explained in *Learning*

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<sup>1</sup> Although FMCSA has treated Canadian and Mexican truckers differently, that is a function not of their visa types, but of the fact that “FMCSA has determined that commercial licenses issued by Canadian provinces and territories, and the United Mexican States, are in accordance with the standards established by our rules.” Commercial Driver’s License Standards, Requirements and Penalties; Regulatory Guidance, 84 Fed. Reg. 8,464, 8,470 (Mar. 8, 2019).

*Resources, Inc. v. Trump*, 146 S. Ct. 628, 643 (2026), the fact that an agency has never “found such power” in its statute “is strong evidence that it does not exist.”

*Third*, FMCSA’s expertise is far afield from immigration. Instead, “the assignment and maintenance of safety” is its “highest priority.” 49 U.S.C. § 113(b). “When an agency has no comparative expertise in making certain policy judgments, ... Congress presumably would not task it with doing so.” *West Virginia*, 597 U.S. at 729 (citation modified).

*Fourth*, Congress is familiar with ongoing debate over non-domiciled CDLs, yet it has not enacted legislation in this area. The current Congress has considered multiple bills that would amend the CMVSA to impose CDL eligibility requirements that are quite similar to those in the Final Rule. *See* H.R. 7758, 119th Cong. (2026) (proposing to amend 49 U.S.C. §§ 31310, 31311(a)(12)); S. 3917, 119th Cong. (2026) (same); H.R. 5688, 119th Cong. (2025) (proposing to amend 49 U.S.C. § 31311(a)(12)). If the CMVSA already authorizes the Final Rule, such congressional intervention would be redundant. And the fact that the bills fail to pass is reason to be suspicious of FMCSA’s newfound powers. After all, when an agency uses “newly uncovered” authority to “enact a

program” that Congress has “considered and rejected,” clear statutory grounding for the program is needed. *West Virginia*, 597 U.S. at 731.

\* \* \*

No matter the statutory-interpretation tool, the result is the same: FMCSA lacks authority to issue the Final Rule. The plain text of the CMVSA is focused on safety and provides FMCSA with no immigration authority. And the CMVSA’s history confirms that Congress’s purpose was to keep the roads safe by imposing a single-state-license regime. To top it all off: the significant economic and political effects of the Final Rule, FMCSA’s lack of expertise, and Congress’s legislative proposals all further reinforce FMCSA’s lack of statutory authority.

## **II. The Final Rule Is Arbitrary and Capricious Because Its Operation Is Inconsistent with Congress’s Safety-and-Licensing Scheme, and It Fails to Properly Consider Significant and Obvious Reliance Interests.**

This Court should also vacate the Final Rule because it is not the product of reasoned decision-making and instead relies on “contrived reasons” to work backward from its desired result. *Dep’t of Com. v. New York*, 588 U.S. 752, 785 (2019). Under the APA, agency action must be set aside as arbitrary and capricious when it rests on considerations Congress did not authorize, fails to account for important aspects of the

problem, or lacks a rational connection between the facts found and the decision made. *Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983). The Final Rule does all three. It replaces safety considerations with immigration status, *decreasing* safety in the process; fails to engage rationally with the administrative record; and unlawfully trivializes the reliance interests of the hundreds of thousands of commercial drivers who stand to lose their profession and the concomitant interests of their families, communities, and employers. The defects in the agency's reasoning lay bare that this is not a safety regulation; it is immigration policymaking by another name.

**A. The Final Rule Will Imperil, Not Advance, Congress's Safety Objectives Under the CMVSA.**

The Final Rule rests on faulty factual premises and provides no basis to conclude that it advances safety. Indeed, all evidence suggests it will *reduce* highway safety. *Amici* have a direct stake in safeguarding commercial motor vehicle safety. Representing over two dozen congressional districts, they serve communities where road safety is inextricably tied to the safe operation of commercial drivers and where a wide range of industries depend on qualified commercial drivers to safely transport goods. For *amici's* constituents, FMCSA's unsupported safety

rationale is not an abstract defect in administrative procedure; it threatens the communities, employers, and public services that depend on commercial drivers.

This Court has repeatedly emphasized that “agency action is arbitrary and capricious if it rests upon a factual premise that is unsupported by substantial evidence.” *Cigar Ass’n of Am. v. FDA*, 132 F.4th 535, 540 (D.C. Cir. 2025) (quoting *Genuine Parts Co. v. EPA*, 890 F.3d 304, 346 (D.C. Cir. 2018)). The Final Rule’s categorical bar relies on 17 “illustrative” crashes involving non-domiciled CDL holders who (purportedly) would be ineligible under the new rule. 91 Fed. Reg. 7,065. But FMCSA admits it lacks both “specific crash count[s]” and enough details to identify the relevant CDL type in the crashes it cites. The agency merely contends it “consulted with USCIS and confirmed that there is a *substantial likelihood*” all of the drivers in the illustrative 17 crashes would be ineligible for CDLs under the Final Rule. *Id.*

Nor does FMCSA engage in any analysis that could show whether the risks of now-barred drivers are higher than those for other CDL holders. *Id.* FMCSA does not, for example, provide a denominator, baseline, or comparative context showing that the excluded groups are

riskier than similarly situated eligible drivers. *Id.* That denominator is critical: as one comment highlighted, and FMCSA conceded, the five fatal crashes referenced in the Interim Final Rule (“IFR”) accounted for just 0.13 percent of 2025 fatal truck crashes, and the 12 resulting fatalities represented only 0.55 percent of fatalities in truck accidents and 0.033 percent of total roadway fatalities. *Id.* The agency’s cherry-picking of a small, uncontextualized set of examples is the hallmark of arbitrary decision-making. *See Am. Radio Relay League, Inc. v. FCC*, 524 F.3d 227, 237–38 (D.C. Cir. 2008).

The agency also fails to identify any causal connection between barring particular groups of immigrants from holding CDLs and reducing the number of fatal crashes. FMCSA’s theory sounds in but-for causation: in FMCSA’s view, removing drivers reduces crashes, but that reasoning would justify excluding any group, regardless of its actual comparative safety record. And FMCSA’s lack of reasoning not only allows for scapegoating a disfavored group, but it also imperils the safety of all the *amici*’s constituents by ignoring the true causes of driver crashes, such as drivers with an unsafe driving record or drivers experiencing fatigue. *See* 91 Fed. Reg. 7,067 (stating cause of crash data is “not relevant” where

the relevant problem is licensure of drivers who “may have a history of unsafe driving”).

Indeed, FMCSA fails to grapple with record evidence that the Final Rule may undermine, rather than advance, Congress’s safety objectives. Commenters warned that excluding experienced drivers based on immigration status would contract the labor supply, increase strain on the remaining workforce, heighten fatigue risks, and disrupt school transportation and local government services. 91 Fed. Reg. 7,081–82. These concerns bear directly on the Final Rule’s claimed safety rationale. Yet FMCSA largely dismissed them based on its speculation that “underutilized” drivers remain available and that other drivers may increase their workload or reenter the market. *Id.* at 7,082. Pointing to inexperienced and fatigued drivers as a safety solution highlights the problems with the Final Rule. An agency cannot claim fidelity to Congress’s safety objectives while brushing aside record evidence that its rule may undermine them. *See State Farm*, 463 U.S. at 43; *Michigan v. EPA*, 576 U.S. 743, 750–53 (2015) (“[R]easonable regulation ordinarily requires paying attention to the advantages *and* the disadvantages of agency decisions.”).

**B. The Final Rule's Stated Rationales Are Pretext for Advancing Immigration Policy.**

FMCSA identifies two safety-related problems supposedly justifying the Final Rule: the difficulty of verifying foreign driving histories and the administrative burdens and compliance issues associated with using Employment Authorization Documents (“EADs”) to establish eligibility for a non-domiciled CDL. 91 Fed. Reg. 7,065. But the Rule's categorical exclusions do not meaningfully track either problem. This is a confusing approach for an agency truly trying to solve a safety crisis, but it makes perfect sense for an agency directed to penalize certain classes of immigrants with its transportation authority and scrambling to find reasons and authority to support the preordained result.

On foreign driving histories, the Rule is both overinclusive and underinclusive. It strips CDLs from many individuals with long-term or wholly domestic U.S. driving histories. Approximately 42,000 of the excluded drivers—21% of those affected—are DACA recipients who have only domestic driving history because they came to the United States as

children.<sup>2</sup> Many additional excluded drivers, including individuals who have been granted asylum and refugees, have robust U.S. driving histories fully accessible to state agencies. And the Rule simultaneously permits H-2A and H-2B seasonal workers as well as E-2 treaty investors—the categories most likely to have ongoing foreign driving records—to obtain CDLs. The need to verify foreign driving histories therefore does not support the Final Rule.

FMCSA also faults States for, in its view, not properly verifying employment authorization and granting CDLs with incorrect expiration dates. 91 Fed. Reg. 7,045. But prior regulations did not clearly impose at least some of the obligations the agency now says States were violating. FMCSA claims States should have intuited, based on a nuanced statutory and regulatory analysis, what expiration dates to use. *See* 49 C.F.R. § 383.71(f) (2021); *see also id.* § 383.73(b)(9), (f) (2022); 91 Fed. Reg. 7,078. But the plain text of those regulations is not definitive, and States could reasonably have thought the expiration of the license need

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<sup>2</sup> *See* Petitioners' Reply in Support of Emergency Motion for a Stay Pending Review at 4, *Rivera Lujan v. FMCSA*, No. 26-1032 (D.C. Cir. Mar. 11, 2026) (citing J.B. Hunt, Immigration Policy and Enforcement Impact on U.S. Commercial Driver Supply (Oct. 28, 2025), <https://perma.cc/L2P6-XS9D>).

not track the expiration of work authorization. (After all, if a driver lost work authorization, he could not be a commercial driver). And, if compliance were the agency's actual concern, the Final Rule would have been the perfect time to clarify the regulatory expectations FMCSA has for States. Instead, the Final Rule penalizes 200,000 commercial truck drivers for the agency's failure to follow the fundamental principle that the rule of law requires that regulated parties "know in advance the rules by which the Federal Government will judge their actions." Exec. Order No. 13,892, *Promoting the Rule of Law Through Transparency and Fairness in Civil Administrative Enforcement and Adjudication*, 84 Fed. Reg. 55,239, 55,239 (Oct. 9, 2019). Any compliance concerns therefore cannot justify the Final Rule.

Compounding these problems, the agency failed to consider obvious alternatives raised during rulemaking as required under *State Farm*, 463 U.S. at 51. See 91 Fed. Reg. 7,051–52. Although commenters emphasized the importance of non-domiciled CDLs to DACA recipients, the agency decided to exclude DACA recipients solely because of States' supposed clerical difficulties with employment authorization codes, rather than assisting States in better compliance. *Id.* at 7,055. And although the

Final Rule considers use of SAVE, an electronic federal-government system that can be queried to verify immigration status, FMCSA rejected SAVE-based verification of EAD validity without meaningful explanation other than to say that FMCSA does not “control” the system and States are, in FMCSA’s view, incapable of learning to use the system. *Id.* at 7,074, 7,087. By leaping to the most punitive and disruptive option without reasoned consideration of these obvious alternatives, the agency acted arbitrarily and capriciously. *See Spirit Airlines, Inc. v. Dep’t of Transp.*, 997 F.3d 1247, 1255 (D.C. Cir. 2021).

Taken together, these shifting and inconsistent explanations all underscore that FMCSA adopted an immigration policy and only afterward attempted to rationalize it as a safety measure. Under the Supreme Court’s reasoning in *Department of Commerce v. New York*, the Final Rule must be set aside because “the evidence tells a story that does not match the explanation” the agency provides. 588 U.S. at 784–85. In that case, the Court rejected as pretextual the agency’s rationale for reinstating a citizenship question because it determined that the Secretary had long been determined to do so, directed staff to implement that decision, and then supplied a Voting Rights Act rationale after the

fact. *Id.* Because that rationale could not “adequately explain[]” the decision, it failed. *Id.* at 783. So too here, where the record demonstrates that FMCSA’s ill-fitting safety rationales serve to justify an immigration-status rule settled on in advance.

**C. The Agency Inadequately Considered the Reliance Interests of 200,000 Affected Workers and Institutions.**

FMCSA likewise gave cursory treatment to the serious reliance interests of hundreds of thousands of CDL workers and the employers, schools, municipalities, contractors, and supply chains that depend on them. “When an agency changes course,” as FMCSA did here, “it must be cognizant that longstanding policies may have engendered serious reliance interests that must be taken into account.” *Dep’t of Homeland Sec. v. Regents of the Univ. of Cal.*, 591 U.S. 1, 30 (2020) (quoting *Encino Motorcars, LLC v. Navarro*, 579 U.S. 211, 221–22 (2016) (internal quotation marks omitted)). Rather than consider reliance interests as part of its decision-making, as the APA requires, the agency recited mere platitudes.

The Rule unsettles the expectations of 200,000 CDL drivers, including tens of thousands of *amici*’s constituents—hard-working employees who have built careers and livelihoods in reliance on the

existing CDL framework.<sup>3</sup> And the disruption is not limited to individual workers; it reverberates across entire local economies. *Amici*'s districts depend on industries—such as agriculture, construction, retail, and logistics—that rely on a stable commercial driver workforce. Stripping eligibility from such a large cohort will disrupt supply chains, increase costs, and strain already fragile transportation networks. Employers have structured hiring, training, and retention programs around these drivers' settled eligibility, while state agencies and training institutions have built licensing systems and compliance frameworks on the same foundation. The Final Rule upends those expectations, imposing immediate operational and financial burdens and forcing costly administrative adjustments.

These harms are ongoing and cumulative, as approximately 8,000 non-domiciled CDLs come up for renewal each month.<sup>4</sup> Yet the agency offers little more than a conclusory assertion that generalized “safety”

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<sup>3</sup> Petitioners' Emergency Motion for a Stay of the Effective Date Pending Review at 1, *Rivera Lujan v. FMCSA*, No. 26-1032 (D.C. Cir. Feb. 26, 2026).

<sup>4</sup> Nineteen State Attorneys General, Comment Letter on Interim Final Rule to Commercial Driver's License Standards: Restoring Integrity to the Issuance of Non-Domiciled Commercial Drivers Licenses (Docket No. FMCSA-2025-0622), at 9 (Nov. 26, 2025), <https://perma.cc/SLG3-MV6S>.

concerns outweigh these substantial reliance interests. 91 Fed. Reg. 7,083. It does not grapple with the scale of disruption, the breadth of affected interests, or the absence of evidence tying the Rule to improved safety outcomes. That failure to meaningfully engage “serious reliance interests” is itself arbitrary and capricious. *Regents*, 591 U.S. at 30 (citation omitted).

FMCSA’s decision to leave the Interim Final Rule largely unchanged only reinforces the point. FMCSA had every opportunity to attempt to cure these defects and declined to do so. The IFR imposed materially the same restrictions. 49 C.F.R. § 383.71(f)(3)(i). This Court recognized that petitioners were likely to succeed on their arbitrary-and-capricious challenge. *Lujan v. Fed. Motor Carrier Safety Admin.*, No. 25-1215 (consolidated with No. 25-1224), 2025 WL 3182504 (D.C. Cir. Nov. 13, 2025) (per curiam). Yet after thousands of comments raised the same reliance concerns, along with the same evidentiary and safety issues, FMCSA left the core provision intact without meaningful explanation and with only its say-so assurance that it did not make the decision “lightly.” 91 Fed. Reg. 7,083. This Court should invalidate the Final Rule: “[t]he reasoned explanation requirement of administrative law, after all,

is meant to ensure that agencies offer genuine justifications for important decisions” and “[a]ccepting contrived reasons would defeat the purpose of the enterprise.” *Dep’t of Com.*, 588 U.S. at 785.

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Congress retains the authority to address policy questions concerning immigration status and commercial driver licensing through the legislative process. Until Congress acts, the agency must operate within the statutory authority Congress has provided—not annex Congress’s policymaking authority. The Court should set aside the Final Rule.

## CONCLUSION

For the foregoing reasons, the Court should grant the petition and vacate the Final Rule.

Respectfully submitted,

Dated: June 22, 2026

/s/ Abby C. Wright

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## CERTIFICATES OF COMPLIANCE AND SERVICE

1. I certify that this brief complies with the length limits, typeface, and type-style requirements of Federal Rules of Appellate Procedure 29(a) and 32(a), as it contains 6,392 words and was prepared in a proportionally spaced typeface using Microsoft Word in 14-point Century Schoolbook font.

2. On June 22, 2026, I filed this brief with the Clerk of this Court via the CM/ECF system. All participants in the case are registered CM/ECF users, and service will be accomplished through that system.

Dated: June 22, 2026

/s/ Abby C. Wright  
Abby C. Wright

*Counsel for Amici Curiae*  
*Twenty-Five Members of Congress*

**APPENDIX: AMICI CURIAE****MEMBERS OF THE U.S. HOUSE OF REPRESENTATIVES (25)**

<b>Adriano Espaillat</b> Representative of New York	<b>Jamie Raskin</b> Representative of Maryland
<b>Nanette Diaz Barragán</b> Representative of California	<b>Gilbert R. Cisneros, Jr</b> Representative of California
<b>Veronica Escobar</b> Representative of Texas	<b>Maxwell Alejandro Frost</b> Representative of Florida
<b>Jesús “Chuy” García</b> Representative of Illinois	<b>Robert Garcia</b> Representative of California
<b>Sylvia R. Garcia</b> Representative of Texas	<b>Adelita S. Grijalva</b> Representative of Arizona
<b>Raja Krishnamoorthi</b> Representative of Illinois	<b>Sam Liccardo</b> Representative of California
<b>Analilia Mejia</b> Representative of New Jersey	<b>Robert Menendez</b> Representative of New Jersey
<b>Grace Meng</b> Representative of New York	<b>Delia C. Ramirez</b> Representative of Illinois
<b>Emily Randall</b> Representative of Washington	<b>Luz Rivas</b> Representative of California
<b>Linda T. Sánchez</b> Representative of California	<b>Darren Soto</b> Representative of Florida
<b>Norma J. Torres</b> Representative of California	<b>Ritchie Torres</b> Representative of New York
<b>Lori Trahan</b> Representative of Massachusetts	<b>Juan Vargas</b> Representative of California
<b>Nydia M. Velázquez</b> Representative of New York	