

SOUTH CAROLINA
DEPARTMENT OF MOTOR VEHICLES



COMMERCIAL DRIVER'S LICENSE
THIRD PARTY TESTER'S
SAFETY OFFICER MANUAL

Revised February 2019

TABLE OF CONTENTS

Section 1: Definitions	Page 1
Section 2: Company and Designated Responsible Person Qualifications and Requirements	Page 3
Section 3: Safety Officer Qualifications/Requirements and CDL Test Administration Guidelines.....	Page 7
Section 4: Documents Required in Driver Files	Page 15
Section 5: Applicant Requirements	Page 17
Section 6: Penalties and Appeals	Page 19
Section 7: Forms, Documents, and FMCSA Regulations	Page 21

Section 1: Definitions

1. **Applicant** - an individual who applies for a Commercial Driver's License (CDL) class A, B, or C and is required to pass the applicable CDL skills tests
2. **BTW** - Behind the Wheel
3. **CDL** - Commercial Driver's License
4. **Commercial Motor Vehicle (CMV)** - means a motor vehicle designed or used to transport passengers or property if the vehicle -
 - a) has a gross vehicle weight rating or gross combination weight of twenty-six thousand one or more pounds;
 - b) is designed to transport sixteen or more persons, including the driver; or
 - c) is transporting hazardous materials and is required to be placarded in accordance with 49 CFR Part 172 subpart F.
5. **Commercial Skills Test Information Management System (CSTIMS)** - an internet-based tool that provides a consistent way to track the scheduling and entry of test results for commercial skills tests by jurisdictions and third party examiners
6. **Company** - any corporation, partnership, joint venture or sole proprietorship, federal or state agency or department, and any political subdivisions
7. **Department** - the South Carolina Department of Motor Vehicles (SCDMV)
8. **Designated Responsible Person (DRP)** - person selected by a Company to supervise safety officers, to include responsibility of all records and submission of reports
9. **Domicile** - someone's permanent home or principal establishment and to where, whenever absent, that person intends to return; Every person is compelled to have one and only one domicile at a time.
10. **Federal Medical Examiner's Certificate** - a certificate received after a physical examination that meets the definition of 49 CFR Parts 391.41, 391.43, and 391.45
11. **Federal Motor Carrier Safety Administration (FMCSA)** - a division of the United States Department of Transportation
12. **Federal Motor Carrier Safety Regulations (FMCSR)** - a part of the United States Department of Transportation that acts as its own division; The rules and regulations set forth by the agency apply to private and exempt carriers.
13. **Full-Time Employee** - individual employed by a company a minimum of 30 hours per week and remains working a minimum of 30 hours per week thereafter; Paid vacation or sick leave is counted towards a full-time employee's minimum of 30 hours per week; The department reserves the right to verify employee's minimum

Section 1: Definitions

hours with the human resources officer of the employer. Failure to maintain the minimum of 30 hours per week shall result in suspension of testing privileges and may result in re-testing of any applicant tested by the safety officer(s) not in compliance.

14. **Gross Combination Vehicle Weight Rating (GCWR)** - the weight or the value specified by the manufacturer as the maximum loaded weight of a single or a combination vehicle. The Gross Vehicle Weight Rating (GVWR) of a combination vehicle (commonly referred to as the “gross combination weight rating”) is the gross vehicle weight rating of the power unit plus the gross vehicle weight rating of a towed unit.
15. **Gross Vehicle Weight Rating (GVWR)** - the value specified by the manufacturer as the maximum allowable total weight of a road vehicle or trailer when loaded, including the weight of the vehicle itself plus fuel, passengers, cargo, etc.
16. **Motor Vehicle Record (MVR)** - official motor vehicle record obtained from the Department
17. **Safety Officer** - a full-time employee of a company licensed by the department to administer skills tests to drivers applying for a class A, B, or C driver's license
18. **Skills Performance Evaluation (SPE)** - an evaluation performed by the department to evaluate the CDL skills test administration of Third Party Tester (TPT) companies employing safety officer(s)
19. **South Carolina Law Enforcement Division (SLED)** - a statewide investigative law enforcement agency in South Carolina
20. **State** - the State of South Carolina
21. **Substandard Test** - any part(s) of the CDL test not administered in accordance with standards, guidelines, and/or policies established by the FMCSR, the Department, state law § 56-1-2080, the CDL TPT Safety Officer Manual, or any act in the determination of the department that jeopardizes the integrity of the CDL test
22. **Third Party Tester (TPT)** - a company or agency licensed by the department to administer CDL skills tests in accordance with 49 CFR 383.75 and the standards established in the CDL TPT Safety Officer Manual
23. **Training** - the process of bringing a person to an agreed standard of proficiency by practice and instruction
24. **Critique** - the process of reviewing the results of a CDL test

Section 2: Company and Designated Responsible Person Qualifications and Requirements

The department reserves the right to change or modify these qualifications or requirements at any time without prior notice. Notification of changes will be sent to the DRP.

Failure to adhere to applicable guidelines established by the FMCSA and the department can result in the retesting of any applicant who was administered a CDL skills test, the safety officer's testing privileges being suspended, and the company being removed from the TPT program.

Company Qualifications and Requirements

Company qualifications and requirements are as follows:

1. Complete and sign a written TPT agreement with the department;
2. Maintain at least one permanent, regularly occupied structure in South Carolina, with a permanent South Carolina street mailing address;
3. Own or lease at least one class A, B, or C (Group) commercial motor vehicle which requires a commercial driver's license, except vehicles placarded for hazardous materials;
4. Allow representatives from the FMCSA or the department to conduct unannounced audits without prior notice and, upon request, provide copies of any applicable records required to be maintained; keep all records, documents, reports, and files required under this program in South Carolina at a designated location and available during normal working hours which are Mondays through Fridays from 8:30 a.m. to 5:00 p.m., excluding holidays. The department reserves the right to change or modify these qualifications or requirements at any time. Notification of changes will be sent to the DRP with 60 days notice prior to implementation.
5. Upon request, provide representatives of the FMCSA or the department with copies of all records required to be maintained in reference to this program; Required items include:
 - a. CDL TPT Safety Officer Manual;
 - b. Company and safety officer(s) certificates;
 - c. Copy of TPT agreement;
 - d. Copy of safety officer(s) current CDL and medical certificate (if medical certificate is applicable), or an acceptable substitute medical certificate as determined by the department;
 - e. Copy of current road test route;

Section 2: Company and Designated Responsible Person Qualifications and Requirements

- f. Copy of each completed CDL skills test scoring sheet (for the current year and the past two calendar years); and
 - g. Copy of each third party examiner's training record.
6. Employ at least one full-time safety officer who meets all department qualifications;
 7. Require that the department perform **federal** background checks on its' safety officers and require the company to provide additional checks for cause on its safety officers and DRPs who have access to CSTIMS;
Note: A DRP who does not have access to CSTIMS and who does not impact the production of a driving credential must submit to a background check as determined by the department.
 8. Allow representatives from the FMCSA or department to conduct instant random sampling, random sampling, or retest any applicant administered a CDL skills test by its safety officers;
 9. Allow representatives from the FMCSA or the department to observe any or all portions of an applicant's CDL skills test (including those portions occurring inside vehicles) being administered by its safety officers
 10. Conduct all portions of the CDL skills test in South Carolina
 11. Maintain a basic control skills course in South Carolina and road test route that meets requirements outlined in the CDL TPT Safety Officer Manual; skills pads must be in a safe location, clearly painted, and free of debris and other vehicles; a company can share another company's basic control skills pad as long as there is a written agreement between the two companies that is provided to the SCDMV at the time of the inspection;
Note: Basic control skills course(s) and CDL road test route(s) must be approved by the department before a CDL test can be administered. The company must promptly notify the department when any change or modifications are made to the skills pad and when there are any issues with the road test route. The department must approve any changes or modifications before the next test is administered. Road test routes must also be approved by the department and a copy of the route(s) must be on file at each testing location.
 13. Safety officers and the DRP are required to attend periodic training sessions when notified by the department; and
 14. The South Carolina Department of Education (SCDOE) and school districts will permit the department to verify date of hire and work hours of the DRP, safety officers, or drivers with their human resources office.
Note: Signature forms will be kept on file with the department indicating

Section 2: Company and Designated Responsible Person Qualifications and Requirements

personnel authorized to sign date of hire forms and the department will be notified within 10 days of changes in signature authority.

Designated Responsible Person Qualifications and Requirements

DRP qualifications and requirements are as follows:

1. May or may not be a safety officer;
2. Must be employed by company on a full-time basis before submitting an application and remain employed as a full-time employee while serving as the DRP; allow the department up to 60 calendar days to review and approve the application;
3. Ensure company agreements, safety officer applications, and company updates are sent to the department, as required; ensure the CDL and Federal Medical Examiner's Certificate, if applicable, of all safety officers remain current; the department will place all companies on a 4-year cycle for these requirements;
4. Ensure testing times, dates, and all information as shown below are placed in CSTIMS:
 - a. A DPR who does not have access to CSTIMS and who does not impact the production of a driving credential must submit to and pass a background check as determined by the department; and
 - b. A DRP who elects to have access to CSTIMS is required to submit to and pass a federal background check.

A Federal background check is not passed if the criminal background includes, but is not limited to, any of the following:

- a. Any felony conviction within the last 10 years; and
- b. Any conviction involving fraudulent activities, regardless of the age of the conviction.

Note: Ensure only authorized and qualified individuals have access to CSTIMS.

5. Be accountable for the maintenance of all driver files;
6. Notify the department in writing and within 24 hours if a safety officer is convicted of a crime or has any cancellation, suspension, or revocation of their driving privileges;
7. Ensure only safety officers certified by the department are permitted to administer CDL skills tests, and those tests are administered in accordance with FMCSA and department guidelines;

Section 2: Company and Designated Responsible Person Qualifications and Requirements

8. Inform safety officers of any changes regarding CDL test administration and/or paperwork requirements as directed by the department;
9. Notify the department in writing, within 10 days, of any changes with a safety officer, DRP, or company status (examples below);
 - a. Terminations
 - b. Withdrawals from the program
 - c. Email address changes
 - d. Relocations
 - e. Mailing address changes; and
10. Require CDL-21E envelopes and envelope sticker seals which can be obtained by sending an email to CDLCompliance@scdmv.net, a fax to (803) 896-8002, or a written request to:

South Carolina Department of Motor Vehicles
CDL Compliance Office
10311 Wilson Blvd. PO Box 1498
Blythewood, South Carolina 29016-0015

Note: Request envelopes and seals 30 days in advance to ensure the department can send supplies in a timely manner.

Section 3: Safety Officer Qualifications/Requirements and CDL Test Administration Guidelines

Safety Officer Qualifications/Requirements

Safety officer qualifications and requirements are as follows:

1. **Must be domiciled in South Carolina**; exceptions are permitted for current and active duty military personnel and their immediate family members seeking CDL TPT safety officer instructor status, provided they can provide their required permanent change of station documents; these applicants will have out-of-state driver's licenses and must provide the SCDMV with a certified driver's record from their "state of record"; the department reserves the right to require additional record checks should the department determine it has probable cause or deems it necessary during an applicant's participation in the program;
2. Cannot have any criminal conviction; a federal background check must be performed as required in FMCSR 49CFR 384.228(g); criteria for not passing the criminal background check includes but is not limited to the following:
 - a. Any felony conviction within the last 10 years; or
 - b. Any conviction involving fraudulent activities.
3. Cannot have any cancellation, suspension, or revocation of driving privileges resulting from a moving violation for three years prior to applying to become a safety officer and must not have any thereafter;
4. Be employed by company on a full-time basis before submitting an application and remain a full-time employee while serving as a safety officer;
5. Submit a completed safety officer application to the department; allow the department up to 60 calendar days to review and approve the application; a completed renewal application is required every two years thereafter;
6. Be certified and licensed by the department within 12 months after completing the department's CDL third party training class; failure to meet all requirements will require applicant to re-apply (to be licensed) and pay additional fees;
7. Cannot hold a "Dual Certification"; a safety officer may only be licensed for one company in which he is a full-time employee;
8. Successfully complete a SPE conducted by the department; failure to schedule and successfully complete an SPE will result in suspension of CDL testing privileges and access to CSTIMS; and

Section 3: Safety Officer Qualifications/Requirements and CDL Test Administration Guidelines

9. Maintain a copy of applicant's valid Federal Medical Examiner's Certificate, if applicable, and a copy of applicant's CDL in the third party files; maintain a copy of CDL TPT Safety Officer Manual, company and safety officer(s) certificate(s), and a copy of a TPT agreement; ensure the CDL and Federal Medical Examiner's Certificate, if applicable, remains current.

CDL Test Administration Guidelines

CDL test administration guidelines are as follows:

1. Safety officers cannot administer CDL tests until they have been trained and certified by the department;
2. A CDL skills test can only be administered during daylight hours;
3. Administer the same CDL test state examiners administer in accordance with guidelines established by FMCSA, the department, and the CDL Examiner Manual;
4. Hold the appropriate class CDL with applicable endorsements and only administer skills tests for a class of license that is equal to or below that held by the safety officer;
5. Administer skills tests in the appropriate group/class or "representative vehicle" the driver intends to operate;
6. Cannot charge or receive any compensation (other than normal salary or overtime pay) from a company or applicant for the administration of a skills test; examples of prohibited compensation are money (other than normal salary or overtime pay), gifts, lunches, favors, goods or services, and/or trades;
7. Cannot administer skills tests for family members or relatives which includes a spouse, grandparent, parent, brother, sister, child, or grandchild of either the safety officer or spouse. This also includes the spouse of a brother or a sister, the spouse of a child, an uncle, aunt, cousin, niece, or nephew; safety officers must never perform transactions for themselves or for their families; safety officers must never perform a transaction for someone who resides in his domicile; upon request, the department will determine whether testing a specific applicant violates these requirements;

Section 3: Safety Officer Qualifications/Requirements and CDL Test Administration Guidelines

8. During the skills test there cannot be any one in or around the vehicle other than one applicant, the safety officer, and federal and/or department auditors, or inspectors;
9. A safety officer who is also an instructor either as a part of a school, training program, or otherwise, is prohibited from administering a skills test to an applicant who received skills training by that safety officer; a safety officer cannot administer a CDL skills test to any applicant if he spent time directly training the applicant on vehicle inspection, basic control skills, and/or BTW requirements; classroom training is excluded from this requirement;
10. Examine each applicant's MVR and refuse to test any driver whose license is subject to or currently is suspended, revoked, cancelled, or disqualified; an MVR cannot be more than 30 days old on the day the skills test is administered;

Note: An official MVR may be obtained from any SCDMV branch office or by submitting a request and the appropriate fees to the address below.

An unofficial copy of an MVR can be printed online at www.scdmvonline.com and attached to the official MVR once received.

Driver Record Check
Department of Motor Vehicles
Post Office Box 1498
Blythewood, South Carolina 29016-0027

11. An applicant's initial Commercial Learner's Permit (CLP) for that class license must be 15 or more days old before a CDL skills test can be administered;
12. Explain and ensure the applicant signs a completed Certification of Conditions form before administering a skills test;
13. Cannot assist applicant in a manner that provides an unfair advantage in passing the skills tests; examples include but are not limited to giving hints or excessive probing during the vehicle inspection, stopping the vehicle before it hits a boundary during the basic control skills, or training on the approved road test route;

Section 3: Safety Officer Qualifications/Requirements and CDL Test Administration Guidelines

14. No translator or other intermediary will be permitted to interpret portions of the test that are scored on the basis of an applicant's verbal or written response; on matters that do not require a scored response, nothing prohibits the use of a translator during training to present questions or receive answers from an applicant in any language;
15. A CDL test must start on time, in accordance with the scheduled time in CSTIMS; the department must be notified immediately if a test is canceled, rescheduled, or delayed more than 30 minutes; the safety officer must also enter the reason for a test cancellation, rescheduling, or delay in the comments section in CSTIMS;
16. Complete the entire skills test without interruption; a brief (10-15 minute) break is permitted after the vehicle inspection. Delaying the test for personal matters, such as private business or meals is prohibited;
17. **Banking Scores** – A safety officer is permitted to carry-over (i.e., bank) scores for an applicant who successfully completes the vehicle inspection and/or basic control skills portion of the CDL skills test if the following conditions are met:
 - a. Maintain on file all original 447-RT (score sheets) from previous tests administered during the current 180-day learner's permit period (or period established by the FMCSR or department);
 - b. The safety officer must complete DL-404B (Worksheet for Banking Scores) before administering any portion of a skills test;
 - c. All portions of the CDL test must be administered if the safety officer is not in possession of the driver's file in order to verify previous test scores or if a different type of vehicle was used;
 - d. Previous test scores from a CDL skills test administered at a SCDMV or TPT are not transferable from one tester to another; for example, an applicant is not permitted to carry-over or bank any previous scores if he goes from the SCDMV to a company or vice-versa;
 - e. Utilizing a different vehicle is permitted if the safety officer compares and verifies the new vehicle is representative of the previous vehicle; the vehicles must match regarding the following items:

Section 3: Safety Officer Qualifications/Requirements and CDL Test Administration Guidelines

- i. Class;
 - ii. Air Brakes;
 - iii. Auto or Manual Transmission;
 - iv. Same articulation for combination vehicles (5th wheel, pintle hook, etc.); and
 - v. Bus/Truck/Truck Tractor
- f. A safety officer is required to administer all failed portions of the skills test including:
- i. A driver who fails the vehicle inspection due to a low score or does not perform the air brake check correctly is required to start over from the beginning during his next test; no scores or items inspected are carried over;
 - ii. A driver who fails the parallel parking maneuver is required to retake and successfully pass all the basic control maneuvers (straight line backing, off-set backing to the left, and conventional parallel parking) before going on the road test; and
 - iii. A driver who fails the road test is required to retake the entire road test.
- g. Once a driver obtains an initial CLP he has 180 days (or period established by the FMCSR or the department) or until the CLP expires or is renewed, to pass the skills test; afterwards, previous banked scores will be voided and the entire CDL skills test will have to be retaken (vehicle inspection, basic control skills, and road test);
18. The skills test must be administered at an approved site in South Carolina and passed in sequence: 1) vehicle inspection, 2) basic control skills, and 3) road test; the skills test is finished if an applicant fails any portion and he **cannot** advance to the next step;

Note: Other BTW requirements are to be done separately and not mixed in with any portion of the CDL test (such as a school district bus test).

A safety officer must provide the applicant a brief critique of items inspected and/or missed during the vehicle inspection and errors committed on the basic control skills and road test. The critique is limited to items applicant inspected and errors made on the skills and road test.

Section 3: Safety Officer Qualifications/Requirements and CDL Test Administration Guidelines

This does not include items skipped over and maneuvers not completed. Any other activity will be considered training.

19. Truck driver training schools licensed to operate in South Carolina and employing a full-time safety officer may administer CDL tests to students who complete a “truck driver training course of instruction” as outlined in state law §90-108 of the SCDMV Truck Driver Training School Regulations; and
 - a. Can only administer skills tests for applicants when the applicant is employed by the school or when the applicant graduates from the school; and
 - b. May administer skills tests to an applicant after the student/graduate has completed or graduated the truck driver training school, provided the school maintains the student in its random drug and alcohol testing program; evidence of inclusion that is not available when requested by the department will require a mandatory re-test of each affected student by the department.
20. After being licensed by the department, the safety officer and/or DRP will be given non-controlled, numbered 447-RT CDL Skill Test Score Sheets that:
 - a. Must be completed in its entirety and kept in the applicant’s file for a minimum of three years, regardless of whether the applicant passed or failed the test;
 - b. Must only be used for administering authorized CDL tests, not for training or other purposes;
 - c. Must have all applicable areas completed in blue or black ink regardless of whether the applicant passed or failed the test; and
 - d. The test is invalid if,
 - i. The envelope was altered or opened before it was delivered to the SCDMV;
 - ii. The envelope was delivered to the SCDMV more than 30 days after the CDL test was administered; and/or
 - iii. Form DL-404D has been altered.
21. Standardized waiting times must be followed if an applicant fails a CDL test and cannot be bypassed. For example, an applicant who fails a CDL test today cannot retest at the SCDMV tomorrow; standardized waiting times between CDL tests are as follows:

Section 3: Safety Officer Qualifications/Requirements and CDL Test Administration Guidelines

- a. 7 days: an applicant with previous driving experience (held a driver's license previously) who fail any portion of the 1st CDL test must wait 7 days before being administered the 2nd test and an applicant with previous driving experience (held a driver's license previously) who fail any portion of the 2nd CDL test must wait 7 days before being administered the 3rd test.

Note: A beginner's permit does not count as driving experience.

- b. 60 days: an applicant who has failed the 3rd or subsequent tests must wait 60 days between each test, regardless of applicant's age or driving experience. A CLP does not count as driving experience.
22. Safety officers are permitted to have their own CDL tests administered by a state examiner (an employee of the DMV whose duties include the administration of CDL skills tests at field offices) or other safety officers within the same company;
23. A safety officer who leaves the employment of a licensed TPT company and wishes to transfer his testing privileges to another licensed TPT company must:
- a. Be a full-time employee with the new third party test company before applying for a transfer; allow the department up to 60 calendar days to review and approve the application;
 - b. Submit a new safety officer application and complete all department requirements within 365 days of leaving the previous company; and
 - c. Successfully complete a SPE.

Exception: A SPE will not be required if application is received and approved within 60 calendar days. If an application is received and approved between 61 and 365 days, a SPE is required. After 365 days, the safety officer must re-apply, meet all department requirements, successfully complete the CDL examiner course, and pay all fees.

24. A safety officer who leaves the employment of a licensed TPT and wishes to transfer to another company that is not a licensed TPT, may not transfer his safety officer's testing privileges to the new company until it applies and is approved for the TPT program; initially, when transferring over to the new company, the safety officer must:

Section 3: Safety Officer Qualifications/Requirements and CDL Test Administration Guidelines

- a. Be a full-time employee with the new company before applying and remain a full-time employee with the new company thereafter;
- b. Allow the department up to 60 calendar days to review and approve the application; and
- c. Submit a new application and complete all department requirements within 365 days of leaving the previous company.

Note: Once the new company is approved and becomes a TPT company, the safety officer must:

- d. Successfully complete a SPE.

Exception: A SPE will not be required if the application is received and approved from the safety officer and company within 60 calendar days of leaving the previous company. If an application is received and approved 61 days to 365 days, a SPE is required. After 365 days the safety officer and company must re-apply, meet all department requirements, and the safety officer must successfully complete the CDL examiner course and pay all fees.

25. Truck schools must provide and explain the residency affidavit to its students prior to administering a CDL test pursuant to FMCSR 49 CFR Part 385;
26. CDL tests that are postponed due to severe weather or emergencies must be noted on the 447-RT, in the comments section in CSTIMS, and reported to the CDL compliance office as soon as possible; and
27. Safety officers and DRPs must attend periodic training sessions conducted by the department when scheduled. Failure to schedule or attend the training will result in suspension of CDL testing privileges and/or access to CSTIMS.

Section 4: Documents Required in Driver Files

A company must maintain a separate driver file for each individual administered a CDL test. Driver files will be kept for three years from the date the test was administered, three years after the driver leaves employment, or three years after the company is withdrawn from the TPT program – whichever is later. The following documents for each applicant will include, at a minimum, the following files and any additional documents determined by the department (copies must be legible):

1. Copy of driver's license reflecting the applicant's address at the time of CDL testing;
2. Copy of CLP and renewal, if applicable;
3. 3-year MVR (cannot be more than 30 days old on the day the skills test is administered);
4. Copy of DL-404D if the applicant passed his CDL Skills test and copy of DL-404B (Worksheet for Banking Scores), if applicable;
5. Original Certification of Conditions; and
6. Proof of residency (residency affidavit; TPT applicants) (only applies to truck schools).

The SCDOE and school districts will need Form CL-15 and the date of hire or memorandum of hire from human resources (not required for truck driving schools). The date of hire must be 30 days before the CDL test.

Note: The SCDOE and school district drivers are exempt from the 30-day employment requirement, provided the following documents are completed and kept in the driver's file.

- a. Employment application (copy);
- b. Form S-4C (School Bus Driver Training) (copy);
- c. Form S-6 (BTW Verification Training Report) (copy); and
- d. Form S-7 (School Bus BTW Score Sheet) (copy)

Note: The SCDOE and school districts give the department the right to verify drivers' work hours with the corresponding human resources office.

If a school district administers a skills test to a volunteer, part-time coach, or school resource officer, the following documents must be in the driver's file:

Section 4: Documents Required in Driver Files

- a. Proof of a pre-employment drug test;
- b. Letter from human resources verifying the employee is fully covered under the school's worker's compensation coverage policies;
- c. If an applicant is a school resource officer, his file must also contain an approval letter from the chief or sheriff which grants the applicant permission and assignment to the school as a school resource officer; and
- d. Copy of applicant's CDL if or when the CDL test is passed.

Section 5: Applicant Requirements

Applicant requirements are as follows:

1. Meet all applicable FMCSA and department requirements;
2. Qualify under the provisions of FMCSR 383 and 391 to operate a CMV;
3. Be 18 years of age or older to move *intrastate* cargo originating and delivered within the boundaries of South Carolina or be 21 years of age or older to move *interstate* cargo over state lines, as governed by State Transportation Police Regulations;
4. Have good vision as determined by visual screening as set forth in 49 CFR part 391.41(b)(10);
5. Successfully pass the applicable knowledge test;
6. Maintain a valid driver's license;
7. Maintain a valid commercial learner's permit (15 or more days old on the day test is administered);
8. Be employed by company for 30 days prior to taking the CDL test; for SCDOE and school district bus drivers, the date of hire must be the date the test was passed or before;
9. Complete and sign a Certification of Conditions form with a copy placed in driver's file; and
10. Applicant's domicile must be in South Carolina.

Section 5: Applicant Requirements

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Section 6: Penalties and Appeals

What follows is penalties and appeals information:

1. The department reserves the right to take prompt and appropriate remedial action against a TPT that fails to comply with state or federal standards for the CDL testing program or with any other terms of the third party contract.
2. The falsification of any required records, applications, or forms by a company, DRP, or safety officer may result in the permanent revocation of certification, but at a minimum, the suspension of third party testing privileges. This act may result in the company's expulsion from the program. Such falsification may also result in criminal prosecution pursuant to §56-1-510.
3. Failure to comply with TPT program requirements, the TPT agreement, and applicable federal or state statutes and regulations may result in the suspension or revocation of a company, DRP, and/or safety officers' testing privileges.
4. Penalties for non-compliance violations with this program are defined and applied as follows:
 - a. Administrative Non-Compliance: failure to meet requirements for reporting, notifications, record keeping, or similar acts that do not compromise test integrity or public safety
 - i. First Occurrence: *Warning letter*
 - ii. Repeated Occurrence: *Thirty (30) day suspension of testing authority*
 - b. Discrepancy in Test Procedure: failure to properly administer a required portion of an otherwise complete test procedure, such as omission of a required maneuver; failure to include all required parts of a test procedure, such as omission of the vehicle inspection; failure to use an approved test route or skills pad; use of an unsafe vehicle; or any other action determined by the department to significantly compromise the integrity of the test process or public safety
 - i. First Occurrence: *Termination of testing authority*
 - c. Fraud: Abuse of authority granted to gain profit through issuance of a license to an applicant that has not passed a complete skills test; falsification of records or information; refusal to allow access to all documents, papers, letters and materials subject to the provisions of the TPT program; or engaged in an act that, in the view of the department, compromises the integrity of the program
 - i. First Occurrence: *Termination of testing authority*

Note: The department will have sole discretion to determine the level of noncompliance and substandard testing for **permanent** removal from the program.

Section 6: Penalties and Appeals

5. Prior to the imposition of any penalties, the department will afford the affected party(ies) the opportunity for a hearing in accordance with the Administrative Procedures Act §23-1-10, et seq. A request for such a hearing must be filed with the South Carolina Office of Motor Vehicle Hearings within ten days after receipt of the department's notification to the affected party(ies). Pursuant to S.C. Code §56-1-360, the giving of notice by mail is complete ten days after the deposit of the notice in the United States mail with postage prepaid addressed to the affected party(ies) at the address contained in the department's records for the party(ies), even if that notice is not received by the addressee.
6. Appeals regarding decisions of the department shall be handled in accordance with the Administrative Procedures Act.

The Office of Motor Vehicle Hearings (OMVH) was created in 2005 and is an office within the South Carolina Administrative Law Court. There are five hearing officers, one of whom will be assigned to hear each case. The hearing officers conduct hearings in accordance with Chapter 23 of Title 1, the Administrative Procedures Act, and the rules of procedure for the Administrative Law Court.

7. The OMVH provides a neutral forum for fair, prompt and objective hearings for persons affected by an action or proposed action of the DMV.
8. Please be advised that Act No. 212 of the 2012 General Assembly changed the filing fee from \$150 to \$200, effective June 7, 2012. Beginning September 10, 2012, the Office of Motor Vehicle Hearings had begun enforcing the filing fee increase and cases will not be processed until the \$200 fee is received.

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Section 7: Forms, Documents, and FMCSA Regulations

These regulations read exactly as they appear in FMCSA Regulations 383.75 regarding third party testing. They come directly from the Federal Motor Carrier Safety Regulations that the department is required to follow.

- A. *Third party tests.* A State may authorize a third party tester to administer the skills tests as specified in subparts G and H of this part, if the following conditions are met:
1. The skills tests given by a third party are the same as those that would otherwise be given by the State using the same version of the skills tests, the same written instructions for test applicants, and the same scoring sheets as those prescribed in subparts G and H of this part;
 2. The State must conduct an on-site inspection of each third party tester at least once every 2 years, with a focus on examiners with irregular results such as unusually high or low pass/fail rates;
 3. The State must issue the third party tester a CDL skills testing certificate upon the execution of a third party skills testing agreement.
 4. The State must issue each third party CDL skills test examiner a skills testing certificate upon successful completion of a formal skills test examiner training course prescribed in §384.228.
 5. The State must, at least once every 2 years, do one of the following for each third party examiner:
 - (i) Have State employees covertly take the tests administered by the third party as if the State employee were a test applicant;
 - (ii) Have State employees co-score along with the third party examiner during CDL skills tests to compare pass/fail results; or
 - (iii) Re-test a sample of drivers who were examined by the third party to compare pass/fail results;
 6. The State must take prompt and appropriate remedial action against a third party tester that fails to comply with State or Federal standards for the CDL testing program, or with any other terms of the third party contract;
 7. A skills test examiner who is also a skills instructor either as a part of a school, training program or otherwise is prohibited from administering a skills test to an applicant who received skills training by that skills test examiner; and
 8. The State has an agreement with the third party containing, at a minimum, provisions that:
 - (i) Allow the FMCSA, or its representative, and the State to conduct random examinations, inspections, and audits of its records, facilities, and operations without prior notice;

Section 7: Forms, Documents, and FMCSA Regulations

- (ii) Require that all third party skills test examiners meet the qualification and training standards of §384.228;
- (iii) Allow the State to do any of the following:
 - A. Have State employees covertly take the tests administered by the third party as if the State employee were a test applicant;
 - B. Have State employees co-score along with the third party examiner during CDL skills tests to compare pass/fail results; or
 - C. Have the State re-test a sample of drivers who were examined by the third party;
- (iv) Reserve unto the State the right to take prompt and appropriate remedial action against a third party tester that fails to comply with State or Federal standards for the CDL testing program, or with any other terms of the third party contract;
- (v) Require the third party tester to initiate and maintain a bond in an amount determined by the State to be sufficient to pay for re-testing drivers in the event that the third party or one or more of its examiners is involved in fraudulent activities related to conducting skills testing of applicants for a CDL.

Exception: A third party tester that is a government entity is not required to maintain a bond.
- (vi) Require the third party tester to use only CDL skills examiners who have successfully completed a formal CDL skills test examiner training course as prescribed by the State and have been certified by the State as a CDL skills examiner qualified to administer CDL skills tests;
- (vii) Require the third party tester to use designated road test routes that have been approved by the State;
- (viii) Require the third party tester to submit a schedule of CDL skills testing appointments to the State no later than two business days prior to each test; and
- (ix) Require the third party tester to maintain copies of the following records at its principal place of business:
 - A. A copy of the State certificate authorizing the third party tester to administer a CDL skills testing program for the classes and types of commercial motor vehicles listed;
 - B. A copy of each third party examiner's State certificate authorizing the third party examiner to administer CDL skills tests for the classes and types of commercial motor vehicles listed;
 - C. A copy of the current third party agreement;

Section 7: Forms, Documents, and FMCSA Regulations

- D. A copy of each completed CDL skills test scoring sheet for the current year and the past two calendar years;
 - E. A copy of the third party tester's State-approved road test route(s); and
 - F. A copy of each third party examiner's training record.
- (b) *Proof of testing by a third party.* The third party tester must notify the State driver licensing agency through secure electronic means when a driver applicant passes skills tests administered by the third party tester.
- (c) *Minimum number of tests conducted.*

The State must revoke the skills testing certification of any examiner who does not conduct skills test examinations of at least 10 different applicants per calendar year. *Exception:* Examiners who do not meet the 10-test minimum must either take the refresher training specified in §384.228 of this chapter or have a State examiner ride along to observe the third party examiner successfully administer at least one skills test.

[76 FR 26886, May 9, 2011, as amended at 78 FR 17881, Mar. 25, 2013]