

## **735-060-0001**

### **Purpose**

The DMV Commercial Driver Licensing Third Party Testing Program allows a person who is not an employee of DMV (a third party) to administer a CDL skills tests to a CDL applicant to determine whether the CDL applicant is competent to obtain commercial driving privileges. This program and acceptance of CDL applicant test scores are authorized under ORS 807.080 and 807.072(3). Other than as provided in OAR 735-063-0270, only a person who has a valid CDL Third Party Examiner Certificate issued by DMV and who is administering the CDL skills test for a certified CDL Third Party Tester is authorized under this program to administer CDL examinations. The purpose of these Chapter 735, Division 60 rules is to describe the CDL Third Party Testing Program, including how a person qualifies for a CDL Third Party Tester Certificate, duties of a Tester, how an individual qualifies for a CDL Third Party Examiner Certificate, duties of an Examiner and other details of the CDL Third-Party Testing Program.

Stat. Auth.: ORS 184.616, 184.619, 807.072 & 807.080  
Stats. Implemented: ORS 807.040, 807.070, 807.072 & 807.080

## **735-060-0003**

### **Definitions**

The following definitions apply to terms in OAR Chapter 735, Division 60:

- (1) "Administrative training" means instruction provided by DMV to a CDL Third Party Tester Representative that describes the administrative requirements and duties of a CDL Third Party Tester, including but not limited to, maintaining records and proper completion of DMV-required reports in CSTIMS.
- (2) "Business day" means 8:00 a.m. to 5:00 p.m. any weekday excluding any holiday when DMV is closed.
- (3) "Calendar day" means the period that begins at 12:01 a.m. and ends at 11:59 p.m. on the same day.
- (4) "Cancel" in relation to a CDL Third Party Tester Certificate of a CDL Third Party Examiner Certificate means to void the authority granted by the certificate.
- (5) "CDL" means a Class A, B or C Commercial Driver License.
- (6) "CDL skills test" means the test, as described in OAR 735-060-0120, of the competency of the CDL applicant to operate a CMV of the type and class for which the test qualifies the CDL applicant.
- (7) "CDL Third Party Examiner" or "Examiner" means an individual who has been authorized by DMV to administer a CDL skills test through a CDL Third Party Tester.
- (8) "CDL Third Party Examiner Certificate" means a document issued by DMV that authorizes an individual to administer, on behalf of DMV, a CDL skills test to a CDL applicant.
- (9) "CDL Third Party Tester" or "Tester" means a person authorized by DMV to operate a CDL skills testing program and provide a CDL Third Party Examiner to administer CDL skills tests to determine driver competency.
- (10) "CDL Third Party Tester Certificate" means a driver competency testing document issued by DMV to authorize the person to operate as a Tester, pursuant to ORS 807.080.
- (11) "CDL Third Party Tester Representative" or "Representative" means an individual, designated by the CDL Third Party Tester, to be responsible for the Tester's activities required by administrative rule and the CDL Third Party Tester Agreement.

- (12) “CLP” means a commercial learner driver permit issued under ORS 807.285 on or after September 26, 2016, or a commercial instruction permit issued under ORS 807.280 prior to September 26, 2016.
- (13) “CMV” means “commercial motor vehicle” as defined in ORS 801.208.
- (14) “CSTIMS”, means Commercial Skills Test Information Management System, a web-based computer system for scheduling and reporting CDL skills tests information and results.
- (15) “Commercial truck or bus driver training school” means a licensed private career school or community college that offers training to the general public in driving CMVs.
- (16) “DMV” means the Driver and Motor Vehicle Services Division of the Oregon Department of Transportation.
- (17) “FMCSA” means the Federal Motor Carrier Safety Administration of the United States Department of Transportation.
- (18) “Motor carrier” means a for-hire carrier or private carrier, as those terms are defined in ORS 825.005, that is subject to the FMCSA Regulations.
- (19) “Oregon CDL Examiner’s Manual” (DMV Form 735-7306) means the document that provides information to DMV and Examiners on administering a CDL skills test as provided in OAR 735-060-0120.
- (20) “Owner,” when used in connection with a person that is a CDL Third Party Tester, means a sole proprietor, partner, officer, director or a shareholder who holds 20% or more of the business.
- (21) “Person” includes, but is not limited to, a motor carrier, a private driver training facility, a public or private business, a sole proprietorship or a department, agency or instrumentality of a state or local government.
- (22) “Personal information” is as defined in ORS 802.175.
- (23) “Revocation” means the termination of a CDL Third Party Tester Certificate or of a CDL Third Party Examiner Certificate and the right to apply for the certificate for the length of time specified in the Notice of Revocation.
- (24) “Suspension” means a temporary withdrawal of the authority granted by a CDL Third Party Tester Certificate or of a CDL Third Party Examiner Certificate for the length of time specified in the Notice of Suspension.
- (25) “Test site” means the physical location where an Examiner administers the pre-trip vehicle inspection and the basic control skills test portions of the CDL skills test.
- (26) “Traffic crime” is as defined in ORS 801.545.
- (27) “Valid CDL” means a CDL issued to an Examiner for the class of vehicle, with any necessary endorsement, required to operate a CMV for which the Examiner intends to administer CDL skills tests. “Valid CDL” does not include:
- (a) A CDL with restrictions that would make the Examiner’s operation of the CMV unlawful under ORS 807.010(2);
  - (b) A CDL that is currently expired, suspended, revoked, cancelled, or otherwise withdrawn in any jurisdiction; or
  - (c) A grant of driving privileges issued as a permit.
- Stat. Auth.: ORS 184.616, 184.619, 807.072 & 807.080  
Stats. Implemented: ORS 807.040, 807.070, 807.072 & 807.080

## **735-060-0030**

### **Qualifications for CDL Third Party Testers**

(1) To qualify for CDL Third Party Tester Certificate, a person must meet and continue to meet throughout the term of the certificate, all of the following qualifications:

(a) Maintain a business office or facility within the State of Oregon where CDL applicant records are securely kept and are available for inspection or audit by DMV, the Oregon Secretary of State's Office or the FMCSA. To qualify as a business office or facility, it must be staffed and open during posted business hours or have a business phone with an answering service, answering machine or voice mail service, with the ability to return all business related messages no later than the following business day.

(b) Comply with all federal, state and local laws or regulations, including all business and zoning requirements.

(c) Have a business name that is registered and listed as active with the Corporation Division of the Office of the Oregon Secretary of State, unless the person is a department, agency or instrumentality of a state or local government.

(d) Have an active e-mail address and Internet access.

(e) Enter into a CDL Third Party Tester Agreement with DMV and comply with all of its terms and conditions.

(f) Designate at least one CDL Third Party Tester Representative, who may be the owner or an employee of the Tester. If more than one Representative is designated, the responsibilities of each must be clearly described, in writing, to the satisfaction of DMV. The Representative must have basic computer skills and complete administrative training as required and provided by DMV.

(g) Have an owner or a Representative who is certified as a CDL Third Party Examiner or has applied for certification as a CDL Third Party Examiner, or have at least one Examiner associated with it.

(h) Maintain comprehensive commercial liability insurance as specified in the CDL Third Party Tester Agreement.

(i) Provide to DMV a surety bond as specified in the CDL Third Party Tester Agreement.

(j) Provide to DMV a statement of consent, signed by an owner or the Representative, allowing DMV to confirm the liability insurance described in subsection (1)(h) of this rule and the surety bond described in subsection (1)(i) of this rule.

(k) Pass the inspection described in OAR 735-060-0040.

(L) Submit to DMV a schedule of all testing services offered and the fee charged for each of those services, if the Tester is compensated for testing services.

(m) Administer CDL skills tests in compliance with all the requirements set forth in OAR 735-060-0120.

(2) A person is not qualified for a CDL Third Party Tester Certificate if the person fails to meet any of the following requirements:

(a) The person has a CDL Third Party Tester Certificate, a CDL Third Party Examiner Certificate or equivalent authorization, issued by any jurisdiction that is currently cancelled, suspended, revoked or otherwise withdrawn.

(b) The person has had a CDL Third Party Tester Agreement, issued by any jurisdiction, involuntarily terminated within the five years immediately preceding the date the person submits an application for a CDL Third Party Tester Certificate to DMV.

(c) The person, an owner, agent or manager of the business applying for the Tester Certificate or the proposed Representative has had a CDL Third Party Tester Certificate, a CDL Third Party Examiner Certificate or equivalent authorization, issued by any jurisdiction, that was cancelled, suspended, or revoked or otherwise involuntarily terminated for conduct that would result in permanent revocation in Oregon.

(d) The person, an owner, agent or manager of the business applying for the Tester Certificate or the proposed Representative has a Driver Testing Certificate, a Driver Training School Certificate or Driver Training Instructor Certificate or equivalent authority issued by any jurisdiction that is currently cancelled, suspended or revoked.

(e) The person, an owner, agent or manager of the business applying for the Tester Certificate or the proposed Representative has been terminated from employment with a state driver licensing agency, any Third Party Tester or equivalent business, a Driver Training School or equivalent business, in any jurisdiction, for a cause related to fraud, or any other reason if DMV determines from the facts and intervening circumstance of the termination that the person is not fit to perform the duties of a Tester or poses a risk to the safety of persons while performing those duties.

(f) The person, an owner, agent or manager of the business applying for the Tester Certificate or the proposed Representative has engaged in conduct that is substantially related to the person's fitness to hold a CDL Third Party Tester Certificate and that demonstrates to DMV unfitness or inability to perform the duties of a Tester.

(g) The person is a motor carrier with an unsatisfactory safety rating from FMCSA or the Oregon Department of Transportation, Motor Carrier Transportation Division.

Stat. Auth.: ORS 184.616, 184.619 & 807.080

Stats. Implemented: ORS 807.040, 807.070 & 807.100

## **735-060-0040**

### **Inspections**

(1) An applicant for a CDL Third Party Tester Certificate must pass an inspection to ensure compliance with all Oregon statutes, DMV administrative rules and federal regulations related to CDL Third Party testing. An authorized representative of DMV will, during regular business hours, inspect the applicant's business office or facility, and any proposed test site, and on-road drive test routes submitted as part of the application.

(2) DMV, the Oregon Secretary of State, or FMCSA may conduct an unscheduled inspection of the business premises, records and equipment of a CDL Third Party Tester to review compliance with all Oregon statutes, DMV administrative rules and federal regulations related to CDL Third Party testing. No notice will be given to the Tester prior to the unscheduled inspection. The Tester must consent to and fully cooperate with the unscheduled inspection.

(3) In addition to any other inspection, DMV will, at least once every two years, conduct an on-site inspection of each Tester to review compliance with Oregon statutes, DMV administrative rules and federal regulations related to CDL Third Party testing.

(4) An onsite inspection, whether scheduled or unscheduled, may include an inspection of:

(a) CDL Third Party Tester records.

(b) Security of CDL applicant personal information.

(c) A review of the Tester's qualifications and compliance with the terms of the CDL Third Party Tester Agreement.

(d) The testing procedures used by CDL Third Party Examiners of the Tester including the test site(s) and on-road drive test route(s).

(e) Any other related areas the DMV representative may deem necessary at the time of the inspection.

(5) As part of an inspection, a DMV representative may observe, co-score and evaluate a CDL Third Party Examiner administering a CDL skills test or retest a sample of the CDL applicants who were tested by an Examiner of the Tester to compare scoring and monitor testing procedures. The Tester must provide a vehicle that will accommodate the Examiner, the CDL applicant being tested, and the DMV representative.

(6) A DMV representative may pose as a customer of a Tester without disclosing that the representative is an employee of DMV in order to inspect the manner in which CDL skills tests are administered.

(7) To pass an inspection, the Tester must be in compliance with the Oregon statutes, DMV administrative rules and federal regulations relating to CDL Third Party testing.

(8) The DMV representative conducting the inspection will prepare a written report and specify any deficiencies that the Tester must correct. The Tester will be given a copy of the report. Deficiencies identified must be corrected by the Tester within 30 calendar days of the date DMV sends the report to the Tester.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 807.080

Stats. Implemented: ORS 807.040, 807.070 & 807.100

### **735-060-0050**

#### **Application for and Issuance of CDL Third Party Tester Certificate**

(1) To apply for a CDL Third Party Tester Certificate, an applicant must:

(a) Meet all the qualifications set forth in OAR 735-060-0030;

(b) Submit the following to DMV, CDL Third Party Testing, 1905 Lana Avenue NE, Salem, Oregon 97314:

(A) A completed Application for a Third Party Tester Certificate, DMV Form 6766, signed by the Representative;

(B) An original CDL Third Party Tester Agreement, signed by the Representative;

(C) One or more proposed test sites where the pre-trip vehicle inspection and basic control skills portions of the CDL skills test will be administered;

(D) For each proposed test site at least one proposed on-road drive test route;

(E) An Application for a CDL Third Party Examiner's Certificate, DMV Form 6767, for each CDL Examiner who will administer CDL skills tests for the Tester;

(F) Proof of comprehensive commercial liability insurance and proof of comprehensive auto liability insurance, if applicable, that meets the requirements specified in the CDL Third Party Tester Agreement. A self-insured public agency covered by the Oregon Tort Claims Act must submit a statement of self-insurance;

(G) Proof of surety bond as required by OAR 735-060-0030(1)(k), unless the Tester is a public agency; and

(H) Authorization for:

(i) Verification of tax compliance;

(ii) Verification of the liability insurance described in OAR 735-060-0030(1)(h); and

(iii) Verification of the surety bond described in OAR 735-060-0030(1)(i).

(2) A CDL Third Party Tester Certificate is valid for two years, unless cancelled, suspended, revoked or the Tester's CDL Third Party Tester Agreement is terminated. The certificate will expire two years from the end of the month it is issued or renewed. For example, a certificate issued or renewed on April 2, 2015 will expire on April 30, 2017.

(3) A CDL Third Party Tester Certificate may be replaced if the original certificate is lost, mutilated or destroyed. To apply for a replacement certificate, a written request that describes the reason for the replacement must be submitted to DMV CDL Third Party Testing, 1905 Lana Avenue NE, Salem, Oregon 97314.

Stat. Auth.: ORS 184.616, 184.619 & 807.080

Stats. Implemented: ORS 807.040, 807.070 & 807.100

### **735-060-0051**

#### **Refusal to Issue a CDL Third Party Tester Certificate**

(1) DMV may not issue a CDL Third Party Tester Certificate to any person when:

- (a) DMV determines that information contained in the application is false;
- (b) DMV determines that the person fails to meet any qualification for certification required by these rules; or
- (c) DMV determines that issuance of the certificate to a specific person may compromise the integrity of the CDL Third Party Testing Program, as described in OAR 735-060-0140.

(2) DMV may not process any application for a CDL Third Party Tester Certificate if any portion of the application is missing or incomplete.

(3) If DMV refuses to issue a CDL Third Party Tester Certificate the person is entitled to a contested case hearing as provided in the Oregon Administrative Procedures Act, ORS 183.413 to 183.500.

(4) A person must submit a request for a hearing in writing within 60 days of the date of the refusal. A hearing request received in a timely manner will not result in issuance of a CDL Third Party Tester Certificate pending the outcome of the hearing.

Stat. Auth.: ORS 184.616, 184.619 & 807.080

Stats. Implemented: ORS 807.040, 807.070 & 807.100

### **735-060-0055**

#### **Duties of a CDL Third Party Tester**

(1) A Tester must:

- (a) Meet the qualifications for a Tester described in OAR 735-060-0030 throughout the term of the certification;
- (b) Notify DMV in writing prior to making any changes to, deviations from, or modifications to a test site or an on-road drive test route unless there is good cause for such change, deviation or modification due to an unexpected closure or safety issue that could not be anticipated by the Tester or Examiner. Good cause includes, but is not limited to, an accident, downed trees or power lines, flooding, or unannounced construction. Any change, deviation or modification from on-road drive test route must not result in any scored maneuver being skipped. Any change, deviation or modification from the test site or on-road drive test route must be noted in CSTIMS along with an explanation of the cause for the change, deviation or modification;
- (c) Notify DMV in writing within 10 calendar days of any change in:
  - (A) The address of the Tester's business office, facility or campus;
  - (B) The status of an Examiner or a Representative, including an Examiner or Representative who has become associated with or is no longer associated with the Tester;
  - (C) The name and address of the Representative, registered agent, an owner, agent or manager;
  - (D) The services offered to the public related to CDL skills testing and the fees charged for those services;
- (d) Notify DMV in writing within two business days if:

- (A) The Tester goes out of business;
- (B) The Tester no longer meets any qualifications set forth in OAR 735-060-0030; or
- (C) An Examiner associated with the Tester no longer meets the qualifications set forth in OAR 735-060-0090;
- (D) An Examiner associated with the Tester is no longer associated with the Tester;
- (E) An Examiner associated with the Tester has been arrested for or convicted of a traffic crime.
- (e) Ensure that all Examiners associated with the Tester remain in compliance with all statutes, administrative rules and regulations related to the qualifications and duties of Examiners.
- (f) Ensure that before any individual associated with the Tester views or enters information in CSTIMS, the individual takes the CSTIMS Privacy Awareness Training.
- (g) Make any and all business records, vehicles and facilities related to the operation of the Tester's testing program available for inspection by representatives of DMV, the Oregon Secretary of State or FMCSA with or without prior notice.
- (h) Correct any deficiencies specified in an inspection report within 30 calendar days of receipt of the report.
- (i) Ensure that vehicles provided by the Tester for testing purposes:
  - (A) Meet the safety equipment standards of the Oregon Vehicle Code and federal regulations, and are maintained in good mechanical condition;
  - (B) Are equipped with a fire extinguisher and three flares or three approved reflectors; and
  - (C) Are properly registered with the motor vehicle licensing agency in the state in which they are licensed.
- (j) Comply with all Oregon statutes, DMV administrative rules and federal regulations related to the CDL Third Party Testing program and with all terms of the CDL Third Party Testing Agreement.
- (k) Notify DMV within 24 hours of any:
  - (A) Notice of a civil legal action related to the administrative of a test that is filed against the Tester or an Examiner associated with the Tester;
  - (B) Criminal investigation, arrest or conviction for an offense described in OAR 735-060-0030(2)(f)(A), a crime involving moral turpitude or any fraudulent activity related to CDL Third Party testing;
  - (C) Complaint concerning the CDL Third Party Tester, the CDL Third Party Tester Representative or an Examiner associated with the Tester that is related to CDL testing;
  - (D) Known or suspected efforts to fraudulently obtain Oregon driving privileges; or
  - (E) Possible data breach of the Tester's computer or physical files that could result in a person accessing a CDL applicant's personal information.
- (L) Maintain and submit records as required by OAR 735-060-0057.
- (m) Ensure that before testing a CDL applicant each Examiner administering tests for the Tester complies with the requirements of OAR 735-060-0105(1) excluding subsection (L).
- (2) A CDL Third Party Tester must not:
  - (a) Falsify any records or fraudulently record, or cause to be recorded, passing scores in CSTIMS for any CDL applicant who has not passed a complete CDL skills test according to the procedures in the Oregon CDL Examiner's Manual or who was not tested in accordance with the requirements set forth in OAR 735-060-0120.
  - (b) Permit anyone except a certified Examiner to administer a CDL skills test or complete a score sheet for the CDL skills test and record, or cause to be recorded, test scores in CSTIMS.
  - (c) Transfer its CDL Third Party Tester Certificate to any other person.

- (d) Assist a person in fraudulently obtaining driving privileges from DMV.
- (e) Disclose a CDL applicant's personal information as defined in ORS 802.175, or a CDL applicant's test scores to any person unless authorized by DMV.
- (f) Violate the Code of Ethics and Rules of Conduct set forth in OAR 735-060-0115.
- (g) Allow an Examiner to administer a CDL skills test while visibly intoxicated.
- (h) Permit an Examiner associated with a commercial truck or bus driver training school to test a driver who has been trained by the Examiner or trained by anyone employed by the school.
- (i) Permit an Examiner associated with a Tester with an employer-administered training program to test a CDL applicant who has been trained by that Examiner on any portion of the CDL skills test.
- (j) State or imply, or allow anyone associated with the Tester to state or imply, to a CDL applicant that he or she must obtain training from the Tester's commercial truck or bus driver training school prior to or after testing.
- (k) Permit an Examiner to change, deviate or modify the test site or on-road drive test route recorded in CSTIMS when the test was scheduled, without prior written approval from DMV, unless there is good cause and notation in CSTIMS, as described in sub-section (1)(b) of this rule.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 807.080

Stat. Implemented: ORS 807.040, 807.070 & 807.100

### **735-060-0057**

#### **Record Requirements for CDL Third Party Testers**

- (1) The Tester must ensure records are maintained at the Tester's primary place of business or by each Examiner at each testing location for no less than the current calendar year and the previous two years from the date of the test.
- (2) The Tester must maintain the following records:
  - (a) A fully completed copy of the CDL test score sheet for each CDL applicant tested, regardless of whether the individual passed or failed the test. To be fully completed the CDL skills test score sheet must contain:
    - (A) The CDL applicant's full name and driver license number;
    - (B) Information on the CMV used for the test, including:
      - (i) Jurisdiction in which the CMV is registered;
      - (ii) The CMV registration plate number;
      - (iii) The class and type of CMV; and
      - (iv) Whether the CMV had airbrakes or air-over-hydraulic brakes, is a passenger-carrying CMV or a school bus, has a manual or automatic transmission, or uses a fifth-wheel hitch system.
    - (C) CMV insurance information, including the name of the insurance carrier and policy holder and the policy number.
    - (D) The CDL skills test site and on-road drive route identifiers.
    - (E) The CDL Third Party Examiner's name.
    - (F) The time and date of the test and test results.
    - (G) The signature and date signed by the CDL applicant and the Examiner.
  - (b) A copy of the CDL applicant's CLP and Oregon driver license presented by the CDL applicant at the time of testing. The CDL applicant's identifying information, including the photo, must be legible on the copy. A Tester or Examiner may not use a copy of the CDL applicant's Oregon CLP or driver license except to identify the CDL applicant for testing

purposes and may not disclose a copy for any purpose except as provided in subsection (2) of this rule, OAR 735-060-0040 and the CDL Third Party Tester Agreement.

(c) A signed copy of the receipt, described in OAR 735-060-0105(1)(f)(B), provided to the CDL applicant showing all fees paid to the Tester and Examiner for all services related to a CDL skills test.

(d) A copy of the current Third Party Agreement between the Tester and DMV.

(e) A copy of the current CDL Third Party Tester Certificate and a copy of the CDL Third Party Examiner Certificate for each Examiner associated with the Tester.

(2) All records subject to this rule must be available for inspection by an authorized representative of DMV, the Oregon Secretary of State, or FMCSA, Monday through Friday between the hours of 8:30 a.m. to 4:30 p.m. Records must be available for inspection without an appointment or prior notice. Records may be retained in paper format or electronically, but must be maintained in a manner allowing for timely and efficient retrieval and review.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 807.080

Stat. Implemented: ORS 807.040, 807.070 & 807.100

### **735-060-0090**

#### **Qualifications for CDL Third Party Examiner Certificate**

(1) To be eligible for a CDL Third Party Examiner Certificate, or to be allowed to maintain a CDL Third Party Examiner Certificate, an individual must meet the following qualifications:

(a) Be at least 21 years of age.

(b) Be an employee of or associated with a CDL Third Party Tester or an applicant for a CDL Third Party Tester Certificate.

(c) Except as provided in subsection (d) of this section, have and maintain a valid Oregon CDL as defined in OAR 735-060-0003(27).

(d) If the individual does not have a valid Oregon CDL, the individual must have a valid CDL issued by another jurisdiction, as defined in OAR 735-060-0003(27). An individual who has not held an Oregon CDL for the required three-year period may be required to submit a certified driving record from any jurisdiction that issued the CDL during that period.

(e) Have the skills and abilities necessary to administer CDL skills tests as described in OAR 735-060-0120.

(f) Not have been convicted of a felony within the last 10 years.

(g) Not have been convicted of a crime involving fraud, false swearing or misrepresentation.

(h) Have successfully completed the CDL Third Party Examiner training course as required in OAR 735-060-0095.

(i) Provide documentation satisfactory to DMV, including a recommendation from a previous employer, of at least one of the following:

(A) At least three years of CMV driving experience;

(B) At least two years of experience as an instructor with a licensed commercial truck driving school;

(C) At least two years of experience training CMV drivers for a private business or government agency; or

(D) At least two years of experience providing testing of CDL drivers for a governmental licensing agency.

(2) An individual is not eligible for a CDL Third Party Examiner Certificate, or will not be allowed to maintain a CDL Third Party Examiner Certificate, if:

(a) The individual is enrolled or participating in a DUII diversion program, or has restricted or suspended driving privileges under a driver improvement program, including an equivalent diversion or driver improvement program in another jurisdiction. This section will apply if the individual was enrolled or participating in a diversion program or his or her driving privileges were restricted or suspended under a driver improvement program anytime within the three years preceding the date an application for a CDL Third Party Examiner Certificate is submitted to DMV.

(b) The individual has been convicted of any traffic crime. This subsection does not apply if the conviction occurred more than five years preceding the date an application for a Third Party Examiner Certificate is submitted to DMV if the traffic crime is a misdemeanor or ten years if the traffic crime is a felony.

(c) The individual has been issued a CDL Third Party Tester or CDL Third Party Examiner Certificate by DMV that is currently revoked or suspended.

(d) The individual has been issued a CDL Third Party Tester Certificate or CDL Third Party Examiner Certificate by another jurisdiction, that is currently revoked or suspended, or that was revoked, involuntarily canceled or suspended within the five years preceding the date an application for a CDL Third Party Examiner Certificate is submitted to DMV.

(e) The individual has been terminated from employment with a state driver licensing agency, CDL Third Party Tester or equivalent, a Driver Training School or equivalent in any jurisdiction, for a cause related to fraud or any other reason if DMV determines from the facts and circumstances of the termination that the individual is not fit to perform the duties of an Examiner or poses a risk to the safety of others while performing those duties.

(f) The individual has engaged in conduct that is substantially related to the person's fitness to hold a CDL Third Party Examiner Certificate and which demonstrates unfitness and inability to perform the duties of an Examiner.

Stat. Auth.: ORS 184.616, 184.619 & 807.080

Stats. Implemented: ORS 807.040, 807.070 & 807.100

### **735-060-0095**

#### **CDL Third Party Examiner Training**

(1) An applicant for a CDL Third Party Examiner Certificate must successfully complete the CDL Third Party Examiner initial training course as required by DMV as part of the application process. This initial training course includes the CSTIMS Privacy Awareness Training.

(2) Each Examiner must successfully complete a refresher training course and examination at least every four years. DMV may require an Examiner to successfully complete the refresher training course and examination more frequently than every four years, based on a review of the Examiner's records and testing procedures.

Stat. Auth.: ORS 184.616, 184.619 & 807.080

Stats. Implemented: ORS 807.040, 807.070 & 807.100

### **735-060-0100**

#### **Application for and Issuance of a CDL Third Party Examiner Certificate**

(1) To apply for a CDL Third Party Examiner Certificate an applicant must:

(a) Meet all the qualifications set forth in OAR 735-060-0090;

(b) Authorize DMV to conduct a nationwide criminal background check.

(c) Submit a completed Application for a CDL Third Party Examiner Certificate, Form 6767 to: DMV, CDL Third Party Testing, 1905 Lana Ave NE, Salem, Oregon 97314. To be complete, the

application must be signed by the applicant for the Third Party Examiner Certificate and by a CDL Third Party Tester, CDL Third Party Tester Representative, or an applicant for a CDL Third Party Tester Certificate.

(2) Upon successfully completing the application process, DMV will issue a CDL Third Party Examiner Certificate to an Examiner that includes the name of the Tester for which the Examiner will administer CDL skills tests.

(3) Unless cancelled, suspended or revoked, a CDL Third Party Examiner Certificate is valid as long as the Examiner is administering tests for a Tester.

(4) The Examiner must immediately return the CDL Third Party Examiner Certificate, score sheets, blank receipts, and Oregon CDL Examiner's Manual to DMV or the Tester when the Examiner is no longer associated with the Tester named on the CDL Third Party Examiner Certificate.

(5) DMV will cancel a CDL Third Party Examiner Certificate upon request of the Tester for whom the Examiner administers tests.

(6) DMV will issue a replacement CDL Third Party Examiner Certificate if the Examiner certifies that the original certificate has been lost, mutilated or destroyed. To apply for a replacement CDL Third Party Examiner Certificate, the Examiner must submit a written request indicating the reason for the replacement to: DMV, CDL Third Party Testing, 1905 Lana Avenue NE, Salem, OR 97314.

(7) DMV will issue an additional CDL Third Party Examiner Certificate when an Examiner is administering tests for more than one CDL Third Party Tester. DMV will issue a new CDL Third Party Examiner Certificate when an Examiner stops administering tests for one Tester and begins administering tests for a different Tester. To obtain an additional or new certificate, the Examiner must:

(a) Meet all the qualifications set forth in OAR 735-060-0090; and

(b) Submit a completed Application for a CDL Third Party Examiner Certificate, Form 6767, as described in subsection (1)(c) of this rule.

Stat. Auth.: ORS 184.616, 184.619 & 807.080

Stats. Implemented: ORS 807.040, 807.070 & 807.100

### **735-060-0101**

#### **Refusal to Issue a CDL Third Party Examiner Certificate**

(1) DMV may not issue a CDL Third Party Examiner Certificate to any individual when DMV determines that:

(a) Information contained in the application is false;

(b) The person fails to meet any qualification for certification required by these rules; or

(c) Issuance of the certification to a specific person may compromise the integrity of the CDL Third Party Testing Program.

(2) DMV may not process any application for a CDL Third Party Examiner Certificate if any portion of the application is missing or incomplete.

(3) If DMV refuses to issue a CDL Third Party Examiner Certificate, the person is entitled to a contested case hearing as provided in the Oregon Administrative Procedures Act, ORS 183.413 to 183.500.

(4) A person must submit a request for a hearing in writing within 60 days of the date of the refusal. A hearing request received in a timely manner will not result in issuance of a CDL Third Party Examiner Certificate, pending the outcome of the hearing.

### **735-060-0105**

#### **Duties of a CDL Third Party Examiner**

- (1) An Examiner must:
- (a) Meet qualifications set forth in OAR 735-060-0090 throughout the period the Examiner holds the CDL Third Party Examiner Certification.
  - (b) Properly complete all forms and reports required by DMV.
  - (c) Administer all CDL skills tests as set forth in OAR 735-060-0120.
  - (d) Administer CDL skills tests only for the class and type of CMVs authorized by DMV on the CDL Third Party Examiner Certificate.
  - (e) Record scores in CSTIMS only for the class of CDL, including endorsements and restrictions, for which the CDL applicant was tested;
  - (f) Comply with the following requirements before administering a CDL skills test:
    - (A) Obtain a copy of the applicant's unexpired Oregon CLP and unexpired Oregon driver license. The CLP must have been issued at least 14 days prior to the date of testing. The CDL applicant's identifying information, including the photo, must be legible on the copy; and
    - (B) Provide the CDL applicant a receipt for the fees the CDL applicant paid for all services relating to the CDL skills test, including but not limited to, fees for the CDL skills test, travel time or distance, and vehicle rental. A fee may be collected only for those services listed on the schedule submitted to DMV under OAR 735-060-0030(1)(L). The receipt must be on a standard receipt form provided to the CDL Tester by DMV or, if not on the DMV form, the receipt must contain the same information as on the DMV form. The receipt must be signed by both the CDL applicant and the Examiner. A receipt need not be provided when the Examiner is administering a test for the Oregon Department of Education or to an employee of the Tester.
  - (g) Successfully complete any additional training when required by DMV, with the Tester or Examiner responsible for all associated costs.
  - (h) Comply with all Oregon statutes, DMV administrative rules, and federal regulations pertaining to the qualifications and duties of a CDL Third Party Examiner.
  - (i) Administer all three portions of the CDL skills tests to a minimum of 10 different CDL applicants during each calendar year. If an Examiner does not meet that minimum during a calendar year, the Examiner must complete refresher training.
  - (j) Be present during any DMV, Oregon Secretary of State, or FMCSA inspection of CDL Third Party Tester records if requested by DMV.
  - (k) Only administer CDL skills tests for the Tester named on the Examiner's CDL Third Party Examiner Certificate.
  - (L) Notify the Tester within 24 hours of any notice of a civil legal action, a criminal investigation or arrest, or any complaint concerning administration of a CDL skills test or conviction of a traffic crime by the Examiner.
  - (m) Report to DMV in CSTIMS all scheduled CDL skills tests at least 48 hours prior to administration of the test. The test schedule must include:
    - (A) The CDL applicant's name and Oregon driver license number;
    - (B) The class, issue and expiration dates, and endorsements on the CLP;
    - (C) The Examiner's name;
    - (D) The date and time of each portion of the CDL skills test;
    - (E) The class and type of vehicle to be used for the test; and

- (F) Identification of the test site and on-road drive test route.
- (n) Unless prior approval is obtained from DMV, only administer a CDL skills test that has been scheduled at least 48 hours prior to the administration of the test.
- (o) Notify DMV of changes to the test site, on-road drive test route or test time that occur after submission of the schedule. The Examiner must notify DMV if a CDL skills test is canceled for any reason.
- (p) Report to DMV in CSTIMS the results of all CDL skills tests within 24 hours of administering the test. The results must include:
  - (A) The date of the test;
  - (B) The actual start and end times of each portion of the test;
  - (C) The test score or reason for an immediate failure or cancellation if applicable.
  - (D) Information on the vehicle used for the test, including the following:
    - (i) The jurisdiction in which the CMV is registered;
    - (ii) The CMV registration plate number;
    - (iii) The class and type of CMV;
    - (iv) Whether the CMV has airbrakes or air-over-hydraulic brakes, was a passenger-carrying CMV or a school bus, had a manual or automatic transmission, or used a fifth-wheel hitch system.
- (2) An Examiner must not:
  - (a) Record or cause to be recorded scores on CSTIMS for any CDL applicant:
    - (A) If the Examiner did not administer the CDL skills test to the CDL applicant;
    - (B) If the Examiner did not administer a CDL skills test meeting the requirements of OAR 735-060-0120 to the CDL applicant;
    - (C) Showing the CDL applicant passed the CDL skills test, when in fact the CDL applicant did not pass the test; or
    - (D) Who is known not to have valid driving privileges. Acceptable evidence of valid driving privileges is the CDL applicant presenting an unexpired Oregon driver license and an unexpired Oregon CLP that was issued no less than 14 days prior to the date of the test.
  - (b) Make any changes to, deviations from, or modifications to a test site or an on-road drive test route unless there is good cause for such change, deviation or modification due to an unexpected closure or safety issue that could not be anticipated by the Tester or Examiner. Good cause includes, but is not limited to, an accident, downed trees or power lines, flooding, or unannounced construction. Any change, deviation or modification to the test site or on-road drive test route must be noted in CSTIMS along with an explanation of the cause for the change, deviation or modification.
  - (c) Falsify any records.
  - (d) Administer CDL skills tests without a valid CDL Third Party Examiner Certificate issued by DMV.
  - (e) Transfer his or her CDL Third Party Examiner Certificate to any other individual.
  - (f) Assist a person in fraudulently obtaining driving privileges from DMV.
  - (g) Violate the Code of Ethics and Rules of Conduct set forth in OAR 735-060-0115.
  - (h) Allow any CDL applicant to take a CDL skills test if the Examiner has reason to believe the CDL applicant is visibly intoxicated.
  - (i) Test a relative or personal friend or knowingly test a relative or friend of the Tester or any owner or employee of the Tester.

(j) Administer a CDL skills test to a CDL applicant who does not possess a valid Oregon driver license along with a valid Oregon CLP that was issued at least 14 calendar days prior to the date of the test.

(k) Administer a CDL skills test when the CDL Third Party Tester Certificate of the Tester for whom the Examiner administers tests is no longer valid.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 807.080

Stats. Implemented: ORS 807.040, 807.070 & 807.100

## **735-060-0115**

### **Code of Ethics and Rules of Conduct**

(1) A CDL Third Party Tester, CDL Third Party Tester Representative and CDL Third Party Examiner must adhere to the highest standards of professional conduct. The standards of professional conduct for a Tester, Representative and Examiner must be consistent with the standards of professional conduct expected of a person employed by DMV who administers CDL skills tests. Therefore, DMV requires Testers, Representatives and Examiners to be professional and respectful in all dealings with CDL applicants and others while ensuring the safety of Oregon roads.

(2) A Tester, Representative or Examiner will not engage in or allow any owner, agent, manager or employee to engage in any of the following:

(a) Assisting or allowing a CDL applicant to fraudulently:

(A) Receive a passing score for a CDL skills test when the CDL applicant failed the test, did not take the test, did not take the complete test, or took a test that was not administered as required by OAR 735-060-0120; or

(B) Obtain driving privileges for which the CDL applicant is ineligible or has not qualified.

(b) Discrimination against any CDL applicant on the basis of race, religion, national origin, disability, age, sex or sexual orientation.

(c) Accepting or requiring anything of value, other than the posted fee, from a CDL applicant.

(d) Offering a bribe to or colluding with a DMV employee when it is evident from the circumstances that the attempt is for the purpose of influencing the results of a DMV inspection or evaluation.

(e) Having sexual relations with or requesting sexual relations from a CDL applicant. For purposes of this section, "sexual relations" means:

(A) Sexual intercourse; or

(B) Any touching of the sexual or other intimate parts of a person for the purpose of arousing or gratifying the sexual desire of either party.

(f) Using physical force or a threat of physical force against a CDL applicant, unless such force or threat is necessary to avoid immediate danger to the safety of the CDL applicant, the Examiner, a DMV employee, employees of the CDL Third Party Tester or other individuals.

(g) Possessing any unlawful controlled substance, inhalant, intoxicating beverage or being visibly intoxicated while administering a CDL skills test.

(h) Falsifying any document or making a misrepresentation on a CDL Third Party Examiner or CDL Third Party Tester application or in any document that relates to any testing activity.

Stat. Auth.: ORS 184.616, 184.619 & 807.080

Stats. Implemented: ORS 807.080

## **735-060-0120**

### **The CDL Skills Test**

(1) The CDL skills test is a three-part test of an individual's skills to safely operate a CMV. The three parts are the pre-trip vehicle inspection test, the basic control skills test, and the on-road drive test.

(2) DMV adopts the following FMSCA regulations in effect on September 26, 2016, and prescribes that these regulations establish the standards that must be followed in the administration of a CDL skills test:

(a) 49 CFR sec. 383.71, Driver Applicant and Certification Procedures;

(b) 49 CFR sec. 383.75, Third Party Testing;

(c) 49 CFR sec. 383.110 through sec. 383.123, Required Knowledge and Skills; and

(d) 49 CFR sec. 383.131 through sec. 383.135, Tests.

(3) The CDL skills test must be administered by a certified CDL Third Party Examiner. The Examiner must:

(a) Not administer more than six CDL skills tests within a single calendar day.

(b) Begin and end all CDL skills tests during daylight hours.

(c) Administer all CDL skills tests within the State of Oregon.

(d) Administer all portions of the CDL skills test in the same type and class of commercial vehicle.

(e) Complete all portions of the CDL skills test on the same calendar day unless the CDL applicant passed the pre-trip vehicle inspection portion of the test as described in section (8) of this rule.

(f) Not administer another CDL skills test until after the minimum waiting period set forth in OAR 735-062-0070(8) has passed, if the CDL applicant fails any part of the CDL skills test.

(g) Administer the CDL skills test using the test scoring sheets approved by DMV.

(h) Not permit any person who is not an Examiner, an official with DMV, an official with FMSCA or the CDL applicant being tested to observe or participate in a CDL skills test without the prior approval of DMV.

(i) Administer all portions of the CDL skills test in English.

(4) A CDL skills test must not be administered if the Examiner has reason to believe that the CDL applicant's driving privileges are suspended, revoked, canceled or have otherwise been withdrawn.

(5) The CDL skills test must be administered in accordance with the federal regulations adopted by section (2) of this rule and the methods and procedures set forth in the Oregon CDL Examiner's Manual. The CDL skills test must include, but is not limited to, the following:

(a) A pre-trip vehicle inspection test. This part of the CDL skills test must be administered first and must be administered at the scheduled test site, except as provided in OAR 735-060-0105(2)(b). It is designed to evaluate the CDL applicant's ability to identify and operate the equipment on the vehicle in which the CDL applicant is being tested and to detect and identify unsafe vehicle equipment items as described in the Oregon Commercial Driver Manual. The specific items that must be inspected during a pre-trip inspection are those listed in the Oregon CDL Examiner's Manual.

(b) A basic control skills test. This part of the CDL skills test must be administered after the CDL applicant has successfully completed the pre-trip vehicle inspection test and prior to the on-road drive test, and must be administered at the scheduled test site, except as provided in OAR 735-060-0105(2)(b). It is designed to evaluate the CDL applicant's ability to control the vehicle

and judge the position of the vehicle in relation to other objects through basic starting, stopping, backing or parking maneuvers. The specific exercises that must be performed and the course layout that must be used during a basic control skills test are those described in the Oregon CDL Examiner's Manual.

(c) An on-road drive test. This part of the CDL skills test, which must be administered after successful completion of the basic control skills test, is designed to evaluate the CDL applicant's competency to safely operate a commercial motor vehicle or combination of commercial vehicles under actual driving conditions. The CDL applicant must demonstrate safe and proper driving methods and procedures and knowledge of the traffic laws. The following apply to an on-road drive test:

(A) It must be administered on the scheduled on-road drive test route, except as provided in OAR 735-060-0105(2)(b).

(B) The commercial motor vehicle or combination of commercial vehicles must be of the class for which the CDL applicant seeks a license or endorsement and must have the proper equipment in safe working order so that the vehicle(s) can be operated safely and legally. The Examiner is not required to verify the safe condition of any commercial motor vehicle provided by the CDL applicant for an on-road drive test, but must not administer the test if it is apparent the vehicle cannot be operated safely and legally.

(C) The CMV or combination of CMVs must not be loaded, but the test must be administered and scored as if the CMV or combination of CMVs is loaded.

(6) DMV will approve an on-road drive test route if DMV determines that it:

(a) Enables the CDL Third Party Examiner to evaluate the ability of the CDL applicant to perform the maneuvers listed in the Oregon CDL Examiner's Manual; and

(b) Meets the specifications for an on-road drive test for a CDL set forth in the Oregon CDL Examiner's Manual.

(7) DMV may determine that a previously approved on-road drive test route is no longer approved if DMV learns that due to road or traffic conditions, trying to perform necessary maneuvers at a certain point on the route may be unsafe. DMV will notify a Tester that a route may no longer be used for an on-road drive test unless a new or modified route is submitted to and approved by DMV.

(8) A passing score for the pre-trip vehicle inspection portion of the CDL skills test will remain valid as described in OAR 735-063-0260(9) if the CDL applicant passes that portion of the CDL skills test but fails, for any reason, the basic control skills test portion or the on-road drive test portion.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 807.080

Stats. Implemented: ORS 807.040, 807.070 & 807.100

### **735-060-0130**

#### **Recording of Test Scores in CSTIMS**

(1) When a CDL Third Party Examiner, CDL Third Party Tester, CDL Third Party Tester Representative, or other employee of a Tester enters scores into CSTIMS that show the CDL applicant passed the CDL skills test, DMV will accept that action as certification by the Tester that the CDL applicant is competent to drive the class of commercial motor vehicle used in the test.

(2) Passing test scores will be accepted by DMV only when entered on CSTIMS for a CDL applicant who:

(a) Has passed a CDL skills test meeting the standards set forth in OAR 735-060-0120;

- (b) Has valid driving privileges, including a CLP that was issued at least 14 calendar days prior to the date of the CDL skills test, and has passed the necessary CDL knowledge tests and vision screening. A hardship or probationary permit does not constitute valid driving privileges; and
- (c) Is applying for a Class A, B, or C CDL, an endorsement on a CDL, or removal of a restriction on a CDL, within six months of passing the required skills test(s).

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 807.080

Stats. Implemented: ORS 807.040, 807.070 & 807.100

### **735-060-0145**

#### **CDL Third Party Tester and CDL Third Party Examiner Sanctions**

- (1) DMV may impose a sanction on a Tester or Examiner if DMV determines a Tester or Examiner has violated any provision related to CDL third party testing described in the Oregon Vehicle Code or these Division 60 rules.
- (2) DMV will impose a sanction determined by DMV to be appropriate for the particular violation. DMV may consider one or more of the following criteria, as it deems appropriate, to determine what sanction or sanctions, if any, may be imposed upon concluding that a violation has occurred:
  - (a) The severity of the violation;
  - (b) The possible impact of the violation on public safety;
  - (c) The possible impact of the violation on the integrity of the CDL Third Party Testing program;
  - (d) The possible impact of the violation on the security of a CDL applicant's personal information;
  - (e) The total number of violations by the Tester or Examiner;
  - (f) Whether the violation is an isolated occurrence, part of a continuing pattern, or one of a series of violations;
  - (g) Whether the violation was willful or committed negligently by a Tester or Examiner who, when considering the Tester's or Examiner's training and experience, should have known the action to be in violation of the provisions of the CDL Third Party Testing program;
  - (h) The history of the Tester's or Examiner's prior violations;
  - (i) The Tester's or Examiner's past performance;
  - (j) Any extenuating circumstances or other factors bearing on the appropriate nature of a sanction; and
  - (k) The history of prior sanctions imposed by DMV on other Testers or Examiners for a similar violation.
- (3) DMV may cancel a CDL Third Party Tester's Certificate if DMV learns that the Tester does not continue to meet all qualifications required in OAR 735-060-0030. DMV may cancel a CDL Third Party Examiner's Certificate if DMV learns that the CDL Third Party Examiner does not continue to meet all qualifications required in OAR 735-060-0060.
- (4) DMV may suspend a CDL Third Party Tester Certificate or a CDL Third Party Examiner for a period of no less than 30 calendar days and no more than one year. The following are examples of violations that may result in suspension:
  - (a) Public Safety – A public safety violation includes, but is not limited to:
    - (A) Failing to follow the methods and procedures set forth in the Oregon CDL Examiner's Manual;
    - (B) Failing to test only at approved sites and on approved routes as described in these Division 060 rules;

- (C) Failing to test in a vehicle that corresponds to the license for which the CDL applicant applied; and
- (D) Allowing a CDL applicant to test in an unsafe vehicle.
- (b) Integrity of the CDL Third Party program – An integrity violation includes, but is not limited to:
  - (A) Conducting business in a manner that reasonably makes a CDL applicant feel intimidated;
  - (B) Conducting business in a manner that causes a CDL applicant to pay additional fees or fees that are not required for the services requested;
  - (C) Entering inaccurate or false information into CSTIMS; or
  - (D) Failing to ensure the CDL applicant tested is the same individual applying for a CDL.
- (c) Security of personal information – A security violation includes, but is not limited to, failing to maintain proper security of records that must be retained as part of the CDL Third Party Testing program.
- (d) Multiple minor violations observed in a single inspection.
- (e) Failing to correct the conduct or circumstances underlying a violation communicated to the Tester or Examiner in a written warning, including those communicated on correction notices or inspection reports, resulting in the continued occurrence of the same or a similar violation.
- (5) DMV may impose an immediate suspension of the CDL Third Party Tester Certificate or the CDL Third Party Examiner Certificate in accordance with the provisions of ORS 183.430.
- (6) DMV may impose a revocation of the CDL Third Party Tester Certificate or of the CDL Third Party Examiner Certificate for no less than one year and no more than five years. DMV may impose a revocation upon review of the criteria described in this rule if the Tester or Examiner:
  - (A) Fails to correct violations that have led to previous suspensions;
  - (B) Commits multiple violations, that individually would otherwise result in a suspension, that are observed during one or more inspections; or
  - (C) The violation is severe or has a significant negative impact on public safety.
- (7) DMV may impose a permanent revocation of the CDL Third Party Tester Certificate or the CDL Third Party Examiner Certificate if DMV determines the Tester or the Examiner participated in fraudulent or criminal activity or has violated any provision of the Code of Ethics and Rules of Conduct set forth in OAR 735-060-0115(2).
- (8) A Tester or Examiner whose certificate has been suspended, canceled or revoked is entitled to a contested case hearing as provided in the Oregon Administrative Procedures Act under ORS 183.413 to 183.500.
- (9) When DMV proposes to sanction a CDL Third Party Tester Certificate or CDL Third Party Examiner Certificate, DMV will send a written notice that the sanction begins 30 calendar days from the date the notice is issued, with the exception of an immediate suspension described in subsection (5) of this rule. The notice will be served by certified mail sent to the Tester's or Examiner's most recent address on record with DMV.
- (10) Except as provided for in section (11) of this rule, a request for a hearing must be submitted in writing to, and received by, DMV within 20 calendar days of the date DMV issues the notice. If a hearing request is received in a timely manner the sanction will not go into effect pending the outcome of the hearing.
- (11) If the certificate is immediately suspended as set forth in subsections (5) of this rule, the request for hearing must be submitted in writing to, and received by, DMV within 90 calendar

days of the date of the notice of suspension. The suspension will remain in effect pending the outcome of the hearing.

(12) Except as provided in OAR 137-003-0528, when no request for a hearing is timely received, the Tester or Examiner has waived the right to a hearing and the notice becomes the final order by default.

(13) If a CDL Third Party Tester Certificate or CDL Third Party Examiner Certificate has been revoked, the Tester or Examiner must reapply for an original certificate after the period of revocation and must meet all the qualifications set forth in OAR Chapter 735, Division 60 rules.

(14) At the end of the suspension period of a CDL Third Party Tester Certificate, the CDL Third Party Tester Certificate is valid unless the certificate has expired. If the certificate has expired, the Tester must reapply for an original certificate and must meet all the qualifications set forth in OAR 735-060-0030.

Stat. Auth.: ORS 184.616, 184.619 & 807.080

Stats. Implemented: ORS 807.040, 807.070 & 807.100