

**RULES
OF
THE TENNESSEE DEPARTMENT OF SAFETY AND HOMELAND SECURITY
DRIVER LICENSE ISSUANCE DIVISION**

**CHAPTER 1340-01-05
SKILLS PERFORMANCE EVALUATION INTRASTATE CERTIFICATE PROGRAM**

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1340-01-05-.01 PURPOSE.

To establish uniform criteria for any person unable to meet the standards in Federal Motor Carrier Safety Administration (FMCSA) 49 C.F.R. § 391.41, as adopted by the Department, to apply for a medical waiver that, if approved, will authorize a person intrastate operation of a commercial motor vehicle by a person with missing or impaired limbs.

Authority: T.C.A. §§ 4-3-2009, 55-50-202, and 55-50-410. **Administrative History:** New rules filed October 24, 2022; effective January 22, 2023.

1340-01-05-.02 DEFINITIONS.

- (1) "Commercial Driver License" (CDL) means a Class A, B, or C driver license issued by the Tennessee Department of Safety and Homeland Security.
- (2) "Commercial Motor Vehicle" (CMV) means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle is a -
 - (a) Combination Vehicle (Group A) - having a gross combination weight rating or gross combination weight of 11,794 kilograms or more (26,001 pounds or more), whichever is greater, inclusive of a towed unit(s) with a gross vehicle weight rating or gross vehicle weight of more than 4,536 kilograms (10,000 pounds), whichever is greater; or
 - (b) Heavy Straight Vehicle (Group B) - having a gross vehicle weight rating or gross vehicle weight of 11,794 or more kilograms (26,001 pounds or more), whichever is greater; or
 - (c) Small Vehicle (Group C) that does not meet Group A or B requirements but that either -
 1. Is designed to transport 16 or more passengers, including the driver; or
 2. Is of any size and is used in the transportation of hazardous materials as defined in this section.
- (3) "Commissioner" means the Commissioner of the Department of Safety & Homeland Security.
- (4) "Days" means calendar days, unless otherwise specified in rule or in state law.
- (5) "Director" means the head of the Commercial Driver License Division of the Department of Safety & Homeland Security.
- (6) "Department" means the Tennessee Department of Safety & Homeland Security.

(Rule 1340-01-05-.02, continued)

- (7) "FMCSA" means the Federal Motor Carrier Safety Administration.
- (8) "Intrastate" means trade, traffic, or transportation within Tennessee that is not interstate commerce.
- (9) "Medical examiner" means an individual certified by the FMCSA and listed on the National Registry of Certified Medical Examiners.
- (10) "Skills Performance Evaluation" (SPE Evaluation) is a skills test that evaluates the ability of a driver with missing or impaired limbs to operate a CMV.
- (11) "Skills Performance Evaluation Intrastate Certificate" (SPEI Certificate) means the certificate issued by the Department that allows drivers with missing or impaired limbs to drive a commercial motor vehicle intrastate.

Authority: T.C.A. §§ 4-3-2009, 55-50-202, and 55-50-410. **Administrative History:** New rules filed October 24, 2022; effective January 22, 2023.

1340-01-05-.03 SKILLS PERFORMANCE EVALUATION.

- (1) A Commercial Driver License applicant seeking an initial Skill Performance Evaluation Intrastate Certificate (SPEI Certificate), or a renewal of an SPEI Certificate, may apply to the Department by submitting the following documents:
 - (a) A copy of a current FMCSA Medical Examination Report Form for Commercial Driver Certification (FMCSA Physical; Form MCSA-5875),
 - (b) A completed FMCSA Vehicle Driving Condition Report,
 - (c) A completed Department of Safety CDL Waiver cover sheet; and
 - (d) A completed Department of Safety Limb Waiver Form.
- (2) The Director or designee may request any further documentation needed to make a determination from the applicant.
- (3) The Department must receive such additional documentation within forty-five (45) days from the date of the letter requesting such documentation.
- (4) If no additional documentation has been requested under 1340-01-05-.03(2), the Director or designee shall have ninety (90) days from the date of receipt of the documents to review and make a determination to either grant or deny, in whole or in part, the application for the SPEI Certificate based on the documentation submitted. The denial will be sent in writing and must include a form for filing an appeal.
- (5) If additional documentation has been requested under 1340-01-05-.03(2), the Director or designee shall have forty-five (45) days from the date of receipt of the additional documents to review and make a determination to either grant or deny, in whole or in part, the application for the SPEI Certificate, based on all the documentation submitted.
- (6) If the application for an SPEI Certificate is approved, the applicant shall be notified in writing by the Department.

(Rule 1340-01-05-.03, continued)

- (a) The SPEI Certificate shall contain any terms, conditions, and limitations as deemed necessary and consistent with the materials provided in the application, or information which was later provided to the Department.
- (b) The SPEI Certificate shall also indicate the specific power units, such as a bus, truck, or truck tractor, for which the SPEI Certificate has been granted.
- (7) An SPEI Certificate shall be valid for a period not to exceed two (2) years from the date of issuance. The expiration date shall be on the SPEI Certificate.
- (8) The commercial driver's license shall display a restriction to signify it is only valid for intrastate operation.
- (9) The driver must have the SPEI Certificate in the driver's possession at all times when operating a commercial motor vehicle.
- (10) Falsifying information in the initial application, renewal application, or falsifying any information required by this section by either the applicant or motor carrier is prohibited and must result in the denial of an SPEI Certificate or the downgrade of a CDL.
- (11) The license holder must submit to medical recertification as required by the Medical Examiner who performed the FMCSA Physical and must provide a copy of the documentation to the Department to maintain the SPEI Certificate.
- (12) The license holder must submit all documentation required by the Department to be considered for SPE Evaluation and SPEI Certificate issuance.
- (13) The SPEI Evaluation skills test must be conducted by an FMCSA certified examiner employed by the Department.
- (14) An SPEI Certificate holder may apply for renewal of the certificate no sooner than ninety (90) days from the expiration date of the SPEI Certificate. Failure to provide all renewal documentation within thirty (30) days of the expiration date of the current SPEI Certificate must result in an automatic downgrade of the applicant's commercial driver's license to a Class D regular driver's license.
- (15) The Department will develop the forms required in 1340-01-05-.03(1)(c), (1)(d), and (3)(a) and make them available to applicants on the Department's website.

Authority: T.C.A. §§ 4-3-2009, 55-50-202, and 55-50-410. **Administrative History:** New rules filed October 24, 2022; effective January 22, 2023.

1340-01-05-.04 APPEALS.

- (1) Denial Based on Documentation
 - (a) An applicant who is denied an SPEI Certificate following submission of the documents required in 1340-01-05-.03(1), but prior to the administration of an SPE Evaluation skills test, may request an appeal of the denial.
 - (b) The appeal must be sent in writing to the Director and must include any documents and any other information the applicant has to show that the decision of the Director was in error.

(Rule 1340-01-05-.04, continued)

1. The appeal documents must be sent to the address on the appeal form provided by the Department and posted on the Department's website.
 2. An appeal request must be received by the Director no later than forty-five (45) days after the date on the letter denying the SPEI Certificate.
- (c) The Commissioner or the Commissioner's designee must review the documentation from the applicant and the CDL division and either uphold or overturn the denial within thirty (30) days of receipt of the appeal.
1. If the denial is upheld, the person may either reapply for an SPEI Certificate after thirty (30) days of the date of the decision or the person may appeal to Chancery Court under Tenn. Code Ann. § 4-5-322 within sixty (60) days of the date of the decision.
 2. If the denial is reversed, the person will need to schedule an SPE Evaluation with the Department.
- (2) Denial Based on Failure of the SPE Evaluation
- (a) An applicant who has failed to satisfactorily complete the SPE Evaluation skills test may, within thirty (30) days, reschedule for another test. The second test does not need to be taken within the thirty (30) days.
 - (b) An applicant who has failed to satisfactorily complete the SPE Evaluation skills test after a second test, or who failed to satisfactorily complete the SPE Evaluation skills test a first time and did not schedule a second test as provided for in subsection (2)(a), will be required to resubmit a new application with documentation showing the issue causing the failure has been addressed, which may include, but is not limited to, documentation of further training.

Authority: T.C.A. §§ 4-3-2009, 55-50-202, and 55-50-410. **Administrative History:** New rules filed October 24, 2022; effective January 22, 2023.