

INTERNAL AGENCY ENFORCEMENT POLICY

ACTION: Policy on Certification Requirements to Conduct Investigations, Investigations, Audits, and Specialized Reviews (MC-SE-2022-002)

Date: July 18, 2022

From: Darrell L. Ruban
Associate Administrator for Safety

To: All Federal Motor Carrier Safety Administration Staff and
Motor Carrier Safety Assistance Program Partners

PURPOSE

This memorandum updates the certification requirements for Federal Motor Carrier Safety Administration (FMCSA) employees and non-employees who conduct inspections, safety audits, investigations, and specialized reviews which are uploaded into FMCSA's Motor Carrier Management Information System (MCMIS). In addition to implementing the Commercial Vehicle Safety Alliance's (CVSA) Operational Policy 4 – Inspector Training and Certification for FMCSA employees, Attachment A establishes FMCSA's certification requirements for employees and non-employees to conduct safety audits, investigations, and specialized reviews.

BACKGROUND

Reasons for Policy Update

During the Coronavirus 2019 (COVID-19) pandemic, the Agency adjusted the requirements for that maintaining certifications of personnel who conduct inspections, safety audits, investigations, and specialized reviews. The main adjustment was waiving the need to conduct comprehensive investigations on-site. Instead, personnel were able to maintain certifications through the conduct of off-site investigations and the tracking of "parts investigated".

As a result of the lessons learned during COVID-19, FMCSA is adopting and incorporating into this policy, the following:

1. Certification to conduct investigations (See: Attachment A, Table 2) is now based on the "Parts Investigated" method, unless otherwise noted. All parts investigated may be accomplished off-site.
2. A certification requirement for hazardous materials (HM) has been added for Safety Investigators at the GS-11 or above levels. (See: Attachment A, Table 2)
3. A Decertification Letter has been added to aid supervisors in the event a certified individual does not maintain certification.
4. Certification requirements to conduct Household Goods Reviews, Cargo Tank Facility Reviews, and Americans with Disabilities Act Reviews (ADAR) are now presented in a table format. (See: Attachment A, Table 3). The requirements to conduct the ADARs are now formalized in this policy, and due to statutory requirements, do not apply to non-FMCSA employees.
5. All documentation in Attachments B and C have been updated to cover the requirements in this policy.

Statutory and Regulatory Background

On March 19, 2002, FMCSA published an interim final rule to carry out the requirements of Section 211 of the Motor Carrier Safety Improvement Act of 1999 (MCSIA) (67 FR 12776). Section 211 required that all individuals conducting driver/vehicle inspections, safety audits, and investigations be qualified and certified to do so (49 U.S.C. 31148). The rule also required the maintenance of certification for individuals conducting these activities. The rule added subpart C to 49 CFR part 385 and was effective on June 17, 2002.

On August 27, 2021, as required by section 5202 of the Fixing America's Surface Transportation Act (FAST Act) (note following 49 U.S.C. 31148), FMCSA amended its regulations to incorporate by reference CVSA's Operational Policy 4 – Inspector Training and Certification (86 FR 48038). As part of the incorporation, CVSA's policy was removed as Attachment A to FMCSA's December 2015 certification policy. The rule amended subpart C to 49 CFR part 385 by removing references to inspections and adding a new section 385.207 to address inspections, as well as updating terminology. The rule also replaced the 2002 interim final rule. CVSA's policy applies only to the certifications required to conduct driver, vehicle, and hazardous materials inspections, but is utilized as the basis for certification of FMCSA and non-FMCSA employees and contractors who conduct inspections, safety audits, investigations, and specialized reviews. The current incorporated version of CVSA's Operational Policy 4 – Inspector Training and Certification is available on FMCSA's website and follows this policy for the convenience of users.

Since 2002, FMCSA issued several certification policies as the responsibility of the Agency grew and the program evolved. To address the August 2021, rule that formally implemented the FAST Act requirement to incorporate by reference CVSA's policy, and to address lessons learned during the COVID-19 National emergency declared in 2020, FMCSA is issuing this policy to provide for a more efficient and effective means of initial and maintenance of certification requirements for individuals who conduct inspections, safety audits, investigations, and reviews.

CANCELLATION

This policy supersedes the policy titled, "Certification Policy for Employees Who Perform Inspections, Investigations, and Safety Audits" (MC-ECS-2016-003) issued December 29, 2015, as amended, and all previous guidance issued on certification requirements.¹

POLICY

Any individual conducting a driver/vehicle inspection that will be uploaded into MCMIS must meet the requirements of CVSA's Operational Policy 4 – Inspector Training and Certification requirements. The FMCSA's requirements relating to implementing CVSA's policy for FMCSA employees are outlined in Attachment A.

The procedures detailed in CVSA's Operational Policy 4 – Inspector Training and Certification and Attachment A of this policy, as applicable, must be followed for initial certification, maintenance of certification, a temporary certification extension, and decertification and recertification processes for inspection, safety audit, investigation, and specialized review certifications.

¹ Inspectors, investigators and auditors who have gained initial certification or maintained certification pursuant to policies and waivers issued by FMCSA during the period covering March 2020 through May 2022 (COVID-19 pandemic) are considered certified to perform the activities either gained or maintained.

IMPLEMENTATION DATE

This memorandum is effective June 1, 2022.

This policy is applicable and authorized for distribution to FMCSA employees and non-employees (i.e., Motor Carrier Safety Assistance Program (MCSAP) Lead State Agencies and contractor officials) that conduct or intend to conduct inspections, safety audits, and investigations, including specialized reviews, uploaded into MCMIS.

Should you have any questions or need additional information, please contact Paul Bomgardner, Chief, Hazardous Materials Division (202) 493-0027 or via e-mail at paul.bomgardner@dot.gov.

Attachments:

- Attachment A: Certification Requirements to Conduct Safety Audits, Investigations, & Specialized Reviews.
- Attachment B: Employee Acknowledgement of Initial Certification Completion and Maintenance Requirements
- Attachment C: Employee Notice of Certification Status
- Attachment D: Decertification Letter

**CERTIFICATION REQUIREMENTS TO CONDUCT
SAFETY AUDITS, INVESTIGATIONS, & SPECIALIZED REVIEWS**

Federal Motor Carrier Safety Administration (FMCSA) employees whose positions require certification must maintain, as a condition of employment, the certifications (i.e., to conduct Level I Driver/Vehicle Inspections, Safety Audits, Investigations or Specialized Reviews) as established for their respective position. Failure to maintain the certifications is a basis for removal or termination of employment with FMCSA.

For non-FMCSA employees conducting activity requiring certification under a contract, the certification requirements will be specified under the contract in accordance with this policy. The contractor must certify in the company's Annual Summary Report that any employee conducting a certified activity met the certification requirements and maintain records to substantiate compliance with the certification requirements.

A. CERTIFICATION PERIOD

FMCSA Employees:

The certification period for FMCSA employees aligns with the 12-month performance appraisal period beginning on June 1 and ending May 31 each year.

Non-FMCSA Employees:

The performance cycle for non-FMCSA employees must be consistent within the respective State or local agency, which may base its certification on either its fiscal, performance, or calendar year, but may not vary by employee.

B. CERTIFICATION MANAGEMENT

FMCSA Employees:

Supervisors must document the employee's Initial Certification Period, Maintenance of Certification Period, and the Decertification and Recertification processes using the Employee Certification Status Forms (Refer to Attachments B and C).

Non-FMCSA Employees:

Supervisors will use documentation for these certification processes established by their respective agencies.

For Motor Carrier Safety Assistance Program (MCSAP) or other State or local government employees, the initial certification and the maintenance of annual certification, decertification, and recertification are managed by the employing entity. MCSAP agencies must certify in their Commercial Vehicle Safety Plans (CVSP) or other grant applications that their employees and subgrantees conducting driver/vehicle inspections, investigations, or safety audits meet the certification requirements.

For agencies under Memoranda of Agreement (MOA) for commercial/household goods (HHG) reviews, the initial certification, maintenance of annual certification, decertification, and recertification requirements must comply with the MOA.

C. INSPECTION CERTIFICATION REQUIREMENT

FMCSA Employees:

All FMCSA employees requiring certification to conduct Inspections, Safety Audits, Investigations, and Specialized Reviews must maintain Level I driver/vehicle inspection certification as specified in CVSA's Operational Policy 4 – Inspector Training and Certification, except as otherwise specified in Attachment A.

Non-FMCSA Employees:

Non-FMCSA employees must be certified to conduct driver/vehicle inspections to the highest level required by the employing entity.

D. CERTIFICATION REQUIREMENTS: SAFETY AUDITS, INVESTIGATIONS, & SPECIALIZED REVIEWS

1. Certification to Conduct Safety Audits: Certification to conduct Safety Audits requires the following:

- Be currently certified to conduct investigations (See section D.2., below); or

Training Requirements:

- Successfully complete North American Standard (NAS) Part A and Part B, General Hazardous Materials, and the New Entrant Safety Auditor course, including any pre- and/or post-training requirements.

Inspection Requirements:

- FMCSA employees must successfully complete Level I driver/vehicle inspection certification requirements.
- A non-FMCSA employee must be certified to conduct driver/vehicle inspections at the highest level required by the employing entity.

Safety Audit Requirements:

- FMCSA and non-FMCSA employees must successfully complete a minimum number of safety audits for initial and maintenance of certification as required in **Table 1**.

2. Certification to Conduct Investigations: Certification to conduct Investigations, which includes comprehensive, onsite focused, and offsite investigations, requires the following:

Training Requirements:

- FMCSA employees must successfully complete the FMCSA Safety Investigator Academy, including any pre- and/or post-Academy training requirements.
- Non-FMCSA employees must successfully complete the NAS Part A and Part B, General Hazardous Materials, and Investigative Safety Analysis courses, including any pre- and/or post-training requirements required by the respective employing entity.

ATTACHMENT A - CERTIFICATION REQUIREMENTS TO CONDUCT SAFETY AUDITS,
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Inspection Requirements:

- FMCSA employees must successfully complete Level I driver/vehicle inspection certification requirements.
- A non-FMCSA employee must be certified to conduct driver/vehicle inspections at the highest level required by the employing entity.

Investigation Requirements:

- All employees must successfully complete the minimum number of investigations for initial and maintenance of certification as required in **Table 2**.

3. Certification to Conduct Specialized Reviews – Commercial/HHG, Cargo Tank Facility and American Disabilities Act

Certification to Conduct Specialized Reviews: Certification to conduct Commercial/HHG, Cargo Tank Facility and/or American Disabilities Act Reviews requires the following:

- For all Specialized Reviews, FMCSA and non-FMCSA employees must be certified to conduct investigations (See section D.2., above); and

Commercial/HHG: Certification to conduct Commercial/HHG reviews requires the following:

Training Requirements:

- Non-FMCSA employees must successfully complete the North American Standard Part A and Part B, General Hazardous Materials, and Investigative Safety Analysis courses, including any pre- and/or post-training requirements required by the respective employing entity.
- All employees must successfully complete the Household Goods/Commercial Enforcement Basic course. Note: Non-FMCSA employees must also complete the supplemental course for State HHG Enforcement Partners.

Inspection Requirements:

- See requirement for certification to conduct investigations (See section D.2., above)

Commercial/HHG Review Requirements:

- All employees must successfully complete the minimum number of reviews for initial and maintenance of certification as required in **Table 3**.

Cargo Tank Facility Review (CTFR): Certification to conduct a CTFR requires the following:

Training Requirements:

- Non-FMCSA employees must successfully complete the NAS Part A and Part B, General Hazardous Materials, and Investigative Safety Analysis courses, including any pre- and/or post-training requirements required by the respective employing entity.
- Employees must successfully complete the National Training Center Cargo Tank Facility Review course.

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Inspection Requirements:

- See requirement for certification to conduct investigations (See section D.2., above)
- All employees must be certified in Hazardous Materials and Cargo Tank driver/vehicle inspections.

CTFR Requirements:

- All employees must successfully complete the minimum number of reviews for initial and maintenance of certification as required in **Table 3**.

Certification to Conduct an Americans with Disabilities Act Review (ADAR): Certification to conduct an ADAR requires the following:

Training:

- FMCSA employees must successfully complete the FMCSA Safety Investigator Academy, including any pre- and/or post-Academy training requirements.
- Non-FMCSA employees are not eligible to conduct ADA reviews.
- FMCSA employees must successfully complete the specialized Americans with Disabilities Act Review training.

Investigation:

- See requirement for certification to conduct investigations (See section D.2., above).
- FMCSA employees trained and certified prior to June 1, 2022, need only maintain certification per Table 3.

ADAR:

- FMCSA employees must successfully complete the minimum number of reviews for initial and maintenance of certification as required in Table 3.

E. TRANSITION FROM INITIAL TO MAINTENANCE OF CERTIFICATION

Upon successfully completing their initial certification requirements, the employee must complete their maintenance of certification requirements as specified in this policy during the remainder of the employee's certification and performance appraisal period.

FMCSA and Non-FMCSA employees must:

- Upon successful completion of initial certification to conduct safety audits or investigations, an employee will transition into maintenance of certification. The number of safety audits or investigations to be completed for maintenance of certification during the remainder of the performance period, following initial certification, shall be as follows:

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Initial Certification Completed During	Number Required for Maintenance	
	Safety Audits	Investigations ¹
1 st Quarter of PY	18	3
2 nd Quarter of PY	12	2
3 rd Quarter of PY	6	1
4 th Quarter of PY	N/A	N/A

¹ During this transition to maintenance of certification the number of investigations for each factor (i.e., Regulatory Part). All exceptions are eligible to count toward meeting the transition.

Note: There is no maintenance transition allowance for specialized reviews upon completion of the initial certification during the certification or performance appraisal period.

F. ANNUAL CERTIFICATION ACCOUNTABILITY

To maintain certification employees must meet the maintenance requirements annually.

1. Documentation of Certification and Decertification

For FMCSA employees, supervisors must document, in conjunction with the end-of-cycle performance appraisal process, the completion of the certification requirements for each performance year. Supervisors will use *Attachments B – Acknowledgement of Initial Certification Completion and Maintenance Requirement, C – Employee Certification Status, and D – Decertification Letter* to document certification. Supervisors are advised to routinely monitor performance activity tracking systems to ensure that the minimum employee performance requirements are met. In addition, to encourage consistent data quality and skill maintenance, it is suggested that supervisors promote the completion of assignments evenly throughout the performance year.

Non-FMCSA employees must follow the policies and procedures for documentation of certification required by their employing entity.

2. Temporary Certification Extension Process

It is the responsibility of the employee seeking a temporary certification extension to file their request no later than 30-days prior to becoming decertified, unless due to reasons beyond the employee’s control the employee is unable to submit the request in advance. At the discretion of the employing entity, a temporary certification extension may be granted only to an employee who was previously certified and could not maintain their certification(s) due to reasons beyond the employee’s control. For example, an employee who fails to complete a required certification requirement due to a medical condition (e.g., illness or injury) or other special circumstance (e.g., temporary management-directed assignment, National Guard or Military Reserve) duty is eligible to request a temporary certification extension. An employee who fails to maintain certification because of a disciplinary action is not eligible for a temporary certification extension.

Process – FMCSA Employees:

The temporary certification extension request must be made in writing to the employee’s

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supervisor.

An employee seeking a temporary certification extension due to a medical condition, including illness or injury, must include original(s) or legible copy(s) on the medical or healthcare practitioner's letterhead, signed (ink) and dated by the healthcare practitioner, providing the following information:

1. Employee's name.
2. The identity and a description of the medical condition that precludes the employee from conducting the required certification activity(s).
3. An explanation of how the identified medical condition precludes the employee from conducting the required certification activity(s).
4. Date the identified medical condition was diagnosed.
5. Prognosis for recovery from the identified medical condition.
6. Date the employee may return to conducting the required certification activity(s).
7. Date(s) the employee was examined for the identified medical condition and/or treated and the treatment received for the identified medical condition.
8. Treating healthcare practitioner's printed name, address, telephone number, and license number.

The healthcare practitioner's documentation must be of sufficient detail so that:

1. The employee's supervisor and Deciding Official can understand the medical basis for the request, and, if necessary, the information can be provided to a healthcare practitioner for consultation.
2. The information can be used to determine whether any reasonable accommodation may be warranted to facilitate the completion of the required certification activity.

The Deciding Official for all FMCSA employee temporary certification extension requests will be the Associate Administrator for Safety. The supervisor or Deciding Official may request additional medical or other documentation (e.g., National Guard or Military Reserve Duty orders). The Deciding Official will advise the employee's supervisor, in writing, of the decision on the temporary certification extension request.

The supervisor of an FMCSA employee approved for a temporary certification extension will issue to the employee the letter of temporary certification extension acceptance (Attachment C). At the discretion of FMCSA, a temporary certification extension shall be granted for the period of time commensurate with the period of time the employee was precluded from conducting the required certification activity, not to exceed a period of three-months to conduct the required certification activity(s). An employee whose return to duty is beyond the three-month extension period will be required to challenge and pass the required certification exams. Additionally, the employee shall complete the specified number of certification activity(s), as soon as practicable, but no later than six-months after passing the required exam(s).

In cases of an emergency (e.g., COVID), where the agency's leadership has ordered an extended work stoppage and thereby an employee is not able to conduct the required inspections, safety audits, investigations or specialized reviews to maintain certification, and the three-month extension period lapses, the employee may be provided an extension at the discretion of Agency of no more

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than three months beyond the end of the ordered work stoppage applicable to the activity. In such a case, any refresher training required to resume work by the Agency on the regulations, policies, or procedures shall be completed by the employee.

If a request for a temporary certification extension is denied, the supervisor will follow the procedures outlined in Section 3 in issuing the employee the Decertification Letter (Attachment D).

If a request for a temporary certification extension is approved, the supervisor will issue to the employee the Temporary Certification Extension Letter (Attachment C). The employee must meet the recertification requirements by the date specified in the letter. If the employee fails to complete the required activity by the date specified, the supervisor will follow the procedures outlined in Section 3 in issuing the Decertification Letter (Attachment D).

Process – Non-FMCSA Employees:

Non-FMCSA employees may request a temporary certification extension to achieve driver/vehicle inspection certification as specified in the CVSA Operational Policy 4 – Inspector Training and Certification Policy. The temporary certification extension request must be made to the employing entity.

Non-FMCSA employees may request, through their employing entity or its designee, which may, at its discretion, grant a temporary certification extension request related to safety audits, investigations, or specialized reviews consistent with this policy. If the employing entity wishes to grant a temporary certification extension request in a manner inconsistent with this policy, such request must be submitted to the FMCSA Division Administrator for Agency review and concurrence, prior to granting the extension.

3. Decertification Process

An employee certified to conduct inspections, safety audits, investigations, or specialized reviews shall be decertified from performing activities requiring certification in accordance with the process outlined in this section. Except in cases where initial certifications span more than one certification year, if an FMCSA employee certified to conduct investigations fails to meet the maintenance of certification requirements by May 31, they are decertified to conduct investigations on June 1.

Inspections:

FMCSA supervisors shall adhere to the decertification process as stated in CVSA's Operational Policy 4 – Inspector Training and Certification when an FMCSA employee fails to maintain an inspection certification for a given certification period. Supervisors will issue to a decertified employee the Decertification Letter (Attachment D), outlining the certification deficiency(ies), training need(s), and an explanation of the path to recertification.

Safety Audits, Investigations, and Specialized Reviews:

FMCSA supervisors shall adhere to the decertification process outlined in this policy. An FMCSA employee shall be decertified for failure to maintain certification requirements in accordance with this policy to conduct safety audits, investigations, and/or specialized reviews, if they fail to meet any of the established requirements for maintenance of certification within the certification period.

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Allowable Activities Upon Decertification:

FMCSA supervisors shall ensure an employee following decertification is only authorized to conduct allowable certification activity(s) until the employee has successfully completed the necessary recertification requirements.

FMCSA Employees:

<u>DECERTIFIED FOR:</u>	<u>PROHIBITED CERTIFIED ACTIVITIES</u>
Level I	All certified activities - inspections, audits, investigations, or specialized reviews, until recertified for Level I activities. <i>Note: This certification is a condition of employment standard for all FMCSA employees in an inspector, auditor, or investigator position.</i>
Specialized Inspection ▪ Passenger Carrier Vehicle ▪ Hazardous Materials ▪ Cargo Tank ▪ Other Bulk Packaging	All specialized inspection activities for which the employee has failed to maintain certification. <i>Note: These certifications are held as a performance standard, as specified in each employee's Annual Performance Appraisal Plan.</i>
Safety Audit	All certified safety audit activities unless the employee-maintained certification of investigation. May continue to conduct certified inspection activities for which certification was maintained. <i>Note: This certification is a condition of employment standard for all FMCSA employees holding an auditor position.</i>
Investigations	All investigations. May continue to conduct audits and inspections for which certification was maintained. <i>Note: This certification is a condition of employment standard for all FMCSA employees holding an investigator position.</i>
Specialized Reviews ▪ Cargo Tank Facility ▪ Household Goods ▪ American Disability Act	All specialized review activities for which the employee is decertified. May continue to conduct all other certified activities for which certification was maintained. <i>Note: These certifications are held as a performance standard, as specified in each employees Annual Performance Appraisal Plan.</i>

Non-FMCSA Employees:

A non-FMCSA employee is expected to adhere to this same standard as a minimum to ensure activities are only conducted by employees certified to perform such activity. The MCSAP State Lead Agency or employing entity may set a higher certification standard, at its discretion, in accordance with any applicable personnel or labor management agreement.

4. Recertification Process

A decertified FMCSA employee or non-FMCSA employee may regain certification for Level I (or Level designated by the employing entity) and Specialized Inspections (except Level VI and PBBT

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inspections) by challenging the applicable exam(s) for the certification(s) sought in accordance with CVSA's Operational Policy 4 – Inspector Training and Certification. A successful challenge is when the employee achieves the passing grade of 80% for the applicable exam(s) taken.

In addition, the employee must complete the specified number of supervised inspections with a certified inspector for the respective certification. All supervised inspections must be reported and uploaded under the certified employee's name and inspector code number. The inspections should be completed as soon as practicable, but no later than six months after passing the written exam(s).

FMCSA Employees:

An employee who is decertified, and whose position requires certification to perform the assigned duties, must request through their supervisor the appropriate re-certification challenge exam or training course with exam. An employee will be provided no more than 90-days, from the date of decertification, to successfully complete the required training for the certification activity(s) as specified within this policy. If the required training course is not available within the 90-day period, then at the discretion of the Agency the employee may request a temporary recertification extension, using the process described under the **Temporary Certification Extension** (See Section F.2.).

The employee must notify their supervisor of the exam results upon completion of a challenge exam or training course for each certification training course required. **An employee who fails within 90-days to achieve a score of 80% or greater on the course exam(s), has failed to meet their condition of continued employment. The employee is subject, at the discretion of FMCSA, to reassignment, demotion, or removal from federal service.**

An employee, who achieves a score of 80% or greater on the course exam(s), within 90-days of decertification, will be granted a 180-day conditional recertification by their supervisor, pending the employee's successful completion of the required supervised inspections, safety audits, investigations, or specialized reviews. The employee must within 180-days of the course exam successfully complete the required supervised certification activities. **An FMCSA employee who fails to successfully complete the required supervised certification activities during the conditional recertification period has failed to meet their condition of continued employment. Such FMCSA employee is subject, at the discretion of FMCSA, to reassignment, demotion, or removal from federal service.**

Upon an employee's successful completion of the required supervised certification activities during the 180-day conditional recertification period, the supervisor shall grant formal re-certification status to an employee.

An employee seeking recertification for any certification required as a performance standard, within their Annual Performance Appraisal Plan, shall be given from the date of decertification not more than 120 days or the period of time specified within a Performance Improvement Plan (PIP) to obtain recertification. **An employee who fails to adequately perform the duties of their position by maintaining the certification(s) as assigned in their performance plan are subject, at the discretion of FMCSA, to reassignment, demotion, and/or removal from federal service.**

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Non-FMCSA Employees:

For non-FMCSA employees, the employing entity must adhere to the requirements in this policy as a minimum for re-certification of an employee following decertification for failure to maintain certification requirements to conduct audits, investigations, or specialized reviews. The employing entity shall coordinate and obtain concurrence from the FMCSA Division Administrator to deviate from the minimum re-certification requirements in this policy. However, the employing entity may impose more stringent standards without coordination and concurrence from FMCSA.

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INITIAL & MAINTENANCE CERTIFICATION TABLES

TABLE 1	
CERTIFICATION TO CONDUCT SAFETY AUDITS REQUIREMENTS	
PROFICIENCY STANDARD	REQUIREMENT
Successfully completed safety audits using the applicable investigation sampling procedures to demonstrate proficiency in the regulations and policies.	INITIAL ¹ : 9 MAINTENANCE: 18

¹ All initial certification safety audits must use onsite sampling protocols and be supervised by an employee certified to conduct safety audits or investigations. The supervising employee instructs, mentors, and observes the safety audits conducted by the employee seeking initial certification; has final approval of the safety audits; and is to be recorded as the primary investigator for the safety audits completed.

TABLE 2	
CERTIFICATION TO CONDUCT INVESTIGATIONS REQUIREMENTS	
REGULATORY FACTORS/PART	REQUIREMENT
General Factor: 49 CFR parts 387 and 390	INITIAL ¹ : 3 MAINTENANCE: 4
Successfully completed investigations relating to each part using the applicable investigation sampling procedures to demonstrate proficiency in the regulations and policies applicable to this factor.	
Driver Factor: 49 CFR parts 382, 383, and 391	INITIAL ¹ : 3 MAINTENANCE: 6
Successfully completed investigations relating to each part using the applicable investigation sampling procedures to demonstrate proficiency in the regulations and policies applicable to this factor. Up to 3 supplemental drug and alcohol reviews (part 382) may count toward meeting the Maintenance Requirement.	
Operational Factor: 49 CFR parts 392 and 395	INITIAL ¹ : 3 MAINTENANCE: 6
Successfully completed investigations relating to each part using the applicable investigation sampling procedures to demonstrate proficiency in the regulations and policies applicable to this factor.	
Vehicle Factor: 49 CFR parts 393 and 396	INITIAL ¹ : 3 MAINTENANCE: 6
Successfully completed investigations relating to each part using the applicable investigation sampling procedures to demonstrate proficiency in the regulations and policies applicable to this factor. At least 3 investigations must include calculation of the out-of-service rate.	
Hazardous Materials (HM):	INITIAL ¹ : 2 MAINTENANCE: 2
<i>Required for FMCSA GS-11 or above Investigators and non-FMCSA employees as required by the employing entity to investigate HM motor carriers. Non-FMCSA employee GS-11 or above equivalent is determined by the employing entity.</i>	
Successfully completed either HM Supplementals or Full Comprehensive HM BASIC investigations using the applicable investigation sampling procedures.	

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Crash Factor: Recordable Rate	INITIAL ¹ : 3 MAINTENANCE: 3
Successfully completed investigations using the applicable investigation sampling procedures to demonstrate proficiency in the regulations and policies applicable to this factor, including a crash evaluation and recordable rate calculation determination.	INITIAL ¹ : 3 MAINTENANCE: 3

¹ All initial certification investigations must use onsite sampling protocols and be supervised by an employee certified to conduct investigations. The supervising employee instructs, mentors, and observes the investigations conducted by the employee seeking initial certification; has final approval of the investigations; and is to be recorded as the primary investigator for the investigations completed.

Note: For guidance on HM Investigations, refer to the Electronic Field Operations and Training Manual (eFOTM) Section 8.1.5.

TABLE 3	
CERTIFICATION TO CONDUCT SPECIALIZED REVIEW REQUIREMENTS	
SPECIALIZED REVIEW	REQUIREMENT
Commercial/HHG:	INITIAL ¹ : 3 MAINTENANCE: 3
Successfully completed investigations using the applicable sampling procedures to demonstrate proficiency in the regulations and policies applicable to this review.	
CTFR:	INITIAL ¹ : 3 MAINTENANCE: 3
Successfully completed investigations using the applicable investigation sampling procedures to demonstrate proficiency in the regulations and policies applicable to review.	
ADAR	INITIAL ² : 4 MAINTENANCE: 3
Successfully completed investigations using the applicable sampling procedures to demonstrate proficiency in the regulations and policies applicable to this review.	

¹ All initial certification specialized reviews must be supervised by an employee certified to conduct such reviews. The supervising employee instructs, mentors, and observes the reviews conducted by the employee seeking initial certification; has final approval of the investigations; and is to be recorded as the primary investigator for the reviews completed.

²The initial ADA review is observed by an employee certified to conduct such reviews. The observing employee mentors the employee who is seeking an initial ADA review certification, has final approval of the overall ADA review including the ADA review report that is provided to the motor carrier, and is noted as an assistant investigator for the completed ADA review. The draft ADA review reports from the next three ADA reviews conducted independently and unobserved by the employee who is seeking an initial ADA review certification, must be reviewed and approved by an ADA program manager or his/her designee.

ATTACHMENT B – EMPLOYEE ACKNOWLEDGEMENT OF INITIAL CERTIFICATION
COMPLETION AND MAINTENANCE REQUIREMENTS



**U.S. Department
Of Transportation
Federal Motor Carrier
Safety Administration**

Memorandum

Subject: ACTION: Certification Acknowledgement

Date: Month, xx 20xx

From: SUPERVISOR NAME
TITLE

Reply to: MC-S-xx

To: EMPLOYEE NAME
TITLE

To ensure that all personnel have the proper training and experience to perform their inspection and investigation activities, the Federal Motor Carrier Safety Administration (FMCSA) requires certification for any individual conducting driver/vehicle inspections, investigations, safety audits, and specialized reviews.

This is to inform you that as a result of satisfactory completion of the initial certification requirements, you are currently certified to conduct (insert either Level I driver/vehicle inspections, investigations, safety audits, and/or specialized review(s)). This initial certification will expire on May 31, 20XX. Beginning June 1, 20XX, and every subsequent 12-month performance appraisal cycle thereafter, you must maintain certification consistent with FMCSA requirements.

Certification is a mandatory condition for continued employment for FMCSA Inspectors, Investigators, and Safety Auditors. Failure to maintain your certification may result in termination of your employment with FMCSA.

Personnel who maintain certification to conduct specialized reviews as stated in their Performance Plan and who do not maintain their certification may be subject to decertification, removal from the specialized review activity and/or other disciplinary actions as appropriate

Should you have any additional questions, please contact your immediate supervisor within X days.
Acknowledgement

I acknowledge receipt of this memorandum. I understand that: 1) certification consistent with FMCSA requirements is a mandatory condition for continued employment and/or a requirement as specified in my Performance Plan; and 2) failure to maintain certification may result in termination of my employment with FMCSA and/or other disciplinary actions as appropriate.

Acknowledgement:

Name

Date



**U.S. Department
Of Transportation
Federal Motor Carrier
Safety Administration**

Memorandum

Subject: ACTION: Notice of Certification Status

Date: Month, xx 20xx

From: SUPERVISOR NAME
TITLE

Reply to: MC-S-xx

To: EMPLOYEE NAME
TITLE

This form is used to document the initial certification, maintenance of certification, decertification, and recertification of the listed employee for purposes of driver/vehicle inspections, investigations, new entrant safety audits, commercial enforcement investigations, and cargo tank facility reviews.

Employee Name: First, Last
Position: Title
Office: Official Duty Station

[INSERT APPROPRIATE SECTION]

INITIAL CERTIFICATION

Having successfully completed the required training, your initial certification period is effective beginning [INSERT DATE] through [INSERT DATE]. During this period, you are authorized to conduct the following supervised activities to demonstrate your proficiency of such activities to achieve initial certification status:

Driver/Vehicle Inspections

- Level I
- Level I/V Hazardous Materials
- Level I/V Cargo Tank/Other Bulk Package
- Level I/V Passenger Vehicle
- Level VI Highway Route Controlled Quantities (HRCQ) of Radioactive Materials (RAM)

Safety Audits

- Safety Audits

Investigations

- Motor Carrier Safety Investigations [GS-5/7/9]
- Motor Carrier Safety & Hazardous Materials Investigations [GS-11/12]
- Commercial Enforcement/ Household Goods (HHG) Investigations

ATTACHMENT C - EMPLOYEE NOTICE OF CERTIFICATION STATUS

- Cargo Tank Facility Reviews
- Passenger ADA Reviews

Your initial certification must be completed by [INSERT DATE]. Upon completion of your initial certification requirements, all additional activities completed will count toward your maintenance of certification as noted under Attachment A, Section E – Transition from Initial to Maintenance of Certification of FMCSA’s Policy on Certification Requirements to Conduct Inspections, Audits, and Investigations.

MAINTENANCE OF CERTIFICATION

Having successfully completed your initial supervised certification activities and the transition from initial to maintenance of certification, you must maintain certification during each performance year (PY) period effective June 1st through May 31st.

Driver/Vehicle Inspections

- Level I
- Level I/V Hazardous Materials
- Level I/V Cargo Tank/Other Bulk Package
- Level I/V Passenger Vehicle
- Level VI Highway Route Controlled Quantities (HRCQ) of Radioactive Materials (RAM)

Safety Audit

- Safety Audits

Investigations

- Motor Carrier Safety Investigations [GS-5/7/9]
- Motor Carrier Safety & Hazardous Materials Investigations [GS-11/12]
- Commercial Enforcement | Household Goods (HHG) Investigations
- Cargo Tank Facility Reviews
- Passenger ADA Reviews

During each PY, it shall be your responsibility to schedule and coordinate, as necessary, with my office the performance of the following certified activities:

TEMPORARY CERTIFICATION EXTENSION

On [INSERT DATE] you requested a temporary certification extension in order to complete the following certified activities:

Driver/Vehicle Inspections

- Level I
- Level I/V Hazardous Materials
- Level I/V Cargo Tank/Other Bulk Package
- Level I/V Passenger Vehicle
- Level VI Highway Route Controlled Quantities (HRCQ) of Radioactive Materials (RAM)

Safety Audit

- Safety Audits

Investigations

- Motor Carrier Safety Investigations [GS-5/7/9]
- Motor Carrier Safety & Hazardous Materials Investigations [GS-11/12]
- Commercial Enforcement/Household Goods (HHG) Investigations
- Cargo Tank Facility Reviews
- Passenger ADA Reviews

On [INSERT DATE] your request for temporary certification extension was approved by [INSERT NAME/TITLE]. Your temporary certification extension expires on [INSERT DATE]. You must complete the remaining balance of your PY [INSERT YEAR] certified activity(s) noted above. The activity(s) complete are not credited to your new PY [INSERT YEAR] maintenance of certification requirement. Your failure to successfully complete the required certified activity(s) will result in decertification.

During this temporary certification extension period, it shall be your responsibility to schedule and coordinate, as necessary, with my office to complete the required activity(s).

RECERTIFICATION FOLLOWING DECERTIFICATION

As specified in your Decertification Notice, having successfully completed the recertification required training, your recertification period is effective beginning [INSERT DATE] through [INSERT DATE]. During this period, you are authorized to conduct the following supervised activities to demonstrate your proficiency of such activities to achieve your recertification status:

Driver/Vehicle Inspections

- Level I
- Level I/V Hazardous Materials
- Level I/V Cargo Tank/Other Bulk Package
- Level I/V Passenger Vehicle
- Level VI Highway Route Controlled Quantities (HRCQ) of Radioactive Materials (RAM)

Safety Audit

- Safety Audits

Investigations

- Motor Carrier Safety Investigations [GS-5/7/9]
- Motor Carrier Safety & Hazardous Materials Investigations [GS-11/12]
- Commercial Enforcement/Household Goods (HHG) Investigations
- Cargo Tank Facility Reviews
- Passenger ADA Reviews

Upon successful completion of your recertification supervised certified activities and the transition from initial to maintenance of certification, you must maintain certification during each performance year (PY) period effective June 1st through May 31st. During each PY, it shall be your responsibility to schedule and coordinate, as necessary, with my office.

As specified in your Decertification Notice, having successfully completed the recertification required training, your recertification period is effective beginning [INSERT DATE] through [INSERT DATE]. During this period, you are authorized to conduct the following supervised activities to demonstrate your proficiency of such activities to achieve your recertification status:

Driver/Vehicle Inspections

- Level I
- Level I/V Hazardous Materials
- Level I/V Cargo Tank/Other Bulk Package
- Level I/V Passenger Vehicle
- Level VI Highway Route Controlled Quantities (HRCQ) of Radioactive Materials (RAM)

Safety Audit

- Safety Audits

Investigations

- Motor Carrier Safety Investigations [GS-5/7/9/]
- Motor Carrier Safety & Hazardous Materials Investigations [GS-11/12]
- Commercial Enforcement/Household Goods (HHG) Investigations
- Cargo Tank Facility Reviews
- Passenger ADA Reviews

Upon successful completion of your recertification supervised certified activities and the transition from initial to maintenance of certification, you must maintain certification during each performance year (PY) period effective June 1st through May 31st. During each PY, it shall be your responsibility to schedule and coordinate, as necessary, with my office.

As a condition of employment, you must maintain at a minimum your certification status to conduct Level I Driver/Vehicle Inspections, Safety Audits (if appropriate), and Motor Carrier Safety Investigations (All Grades) and Motor Carrier Safety/Hazardous Materials Investigations (GS-11/12 Only). All other certifications noted above are part of your performance plan expectations, as such your failure to maintain certification with those activities may adversely impact your performance evaluation and rating.

You are encouraged to seek confidential counseling through FMCSA's Employee Assistance Program (EAP) if you believe that health or personal problems have adversely influenced your ability to complete your certification requirements. In addition, you have the right to have me consider any health or personal problems that affect your employment. For further information relative to your rights to EAP counseling, you may contact 1-800-222-0364.

If applicable, the new certification period will be documented in Number 1, above. If the employee is not recertified, a plan of action must be determined by the supervisor as soon as practicable.

Employee Signature

Date

Supervisor Signature

Date



**U.S. Department
Of Transportation
Federal Motor Carrier
Safety Administration**

Employee Name
Employee Address
Employee Email Address

Dear [Employee Name]:

Your position description as a [Insert Official Position Title] employee requires, as a condition of employment, that you maintain compliance with the Federal Motor Carrier Safety Administration’s (FMCSA) certification policy to conduct inspections, audits, or investigations. The failure to maintain a condition of employment is a basis of an adverse action, which may result in removal under 5 U.S.C. chapter 75.

The Agency’s “Policy on Certification Requirements to Conduct Inspections, Audits, and Investigations,” (MC-SE-2022-002, Issued May 6, 2022), specifies in Section G (Annual Certification Accountability) that you must complete your certification requirements annually for each performance year, unless you requested and received a temporary certification extension through the process described in the policy.

This letter is to inform you that as of [DATE], you are decertified and prohibited from performing:

- [INSERT PROHIBITED ACTIVITY(ies): DRIVER/VEHICLE INSPECTIONS, SAFETY AUDITS, INVESTIGATIONS (Refer to Policy’s Decertification Process “*Allowable Activities Upon Decertification*” Section for Clarification)].

In accordance with the Agency’s “Policy on Certification Requirements to Conduct Inspections, Audits, and Investigations,” (MC-SE-2022-002, issued May 6, 2022), this letter advises that to become recertified, you must follow the directions in Section F (Annual Certification Accountability), subsection Recertification Process. Specifically, you must:

1. Complete the following class(es) and pass exam(s) or retest(s) offered by the National Training Center (NTC).
 - [LIST EACH COURSE (Include specific information on the class(es) the decertified employee must complete)]
2. Registration for these classes must be done through the Learning Management System (LMS) at the following link: <https://fmcsa.lms.dot.gov/or>;

You must successfully complete the classes and pass the exams as described above by [INSERT DATE 90 DAYS FROM THE DATE OF DECERTIFICATION SET FORTH IN PARAGRAPH 3 ABOVE]. Additionally, upon successful completion of the training portion of recertification, you must successfully complete the required supervised activities within 180 days of the training

ATTACHMENT D – DECERTIFICATION LETTER

completion date.

Until you are recertified, you may only perform activities as specified in the policy’s “*Allowable Activities Upon Decertification*” table, which is in the Decertification Process subsection. As advised in the May 6, 2022, policy, a copy of which is enclosed herein, employees whose position descriptions require certification, but who fail to obtain recertification is a basis for adverse action, which may result in removal under 5 U.S.C. chapter 75.

You are encouraged to seek confidential counseling through FMCSA’s Employee Assistance Program (EAP) if you believe that health or personal problems have adversely influenced your ability to complete your certification requirements. In addition, you have the right to have me consider any health or personal problems that affect your employment. For further information relative to your rights to EAP counseling, you may contact 1-800-222-0364.

If you have any questions about this letter or the decertification and recertification processes, please contact me immediately at (xxx) xxx-xxxx or by email.

Sincerely,

Name
First Line Supervisor Title

Enclosures:

1. Position Description
2. [INSERT NEW POLICY REFERENCE & DATE.]
3. [ATTACH CVSA OPERATIONAL POLICY 4, WHEN APPROPRIATE]