

# **Questions and Answers: Certification Policy for Employees Who Perform Inspections, Investigations, and Safety Audits**

## **July 2022**

### **Q1: Why was the policy issued?**

A1: During the Coronavirus 2019 (COVID-19) pandemic, the Agency adjusted the requirements for 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. All parts investigated may be accomplished off-site.
2. A certification requirement for hazardous materials (HM) has been added for investigators at the GS-11, or above levels. (See: Attachment A, Table 2) Note: While mandatory for GS-11 and above, any GS-Grade Safety Investigator may pursue HM Certification and/or conduct non-complex HM investigations. Non-FMCSA entities may designate the level at which the HM Certification will apply to their personnel.
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.

All documentation in Attachments B and C have been updated to cover the requirements in this policy.

### **Q2: When is this policy effective?**

A2: The policy became effective on June 1, 2022, for FMCSA employees, and at the beginning of the next certification cycle for non-FMCSA personnel. For example, if a State uses the calendar year for certification, this policy will go into effect on January 1, 2023.

### **Q3. The certification policy lays out a quarterly chart for initial certification and then transitions to maintenance for the first year. Please clarify.**

A3: The chart, as shown below, provides a pro-rated number of audits and/or investigations of parts to **maintain** certifications once initial certifications are gained, as follows:

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

<sup>1</sup> 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.

Example: If a Safety Investigator is initially certified during the third quarter of the Performance Year (PY), which is December through February for FMCSA, then the Safety Investigator will have to conduct 1 investigation of each part identified in Table 2 of the policy in order to meet maintenance requirements for that particular Performance Year.

**Q3a: PY is June to May. If an employee graduates the academy in March, do they still have one year after graduation to meet the initial certification?**

A3a: Yes, the initial qualification time has not changed from prior policies.

**Q3b: Or are we saying sometime between March of one year and May (end of PY) the next year they have to do the requisite initial certification plus the maintenance? In this, would Q1 be March, April, May?**

A3b: Maintenance of certifications begins immediately upon completion of initial certification. So, depending on how quickly a new investigator or auditor completes the requirements for initial certifications will determine how many investigations/safety audits are needed during the current PY for maintenance. For FMCSA Q1 is June, July and August. States may have different PYs, but the quarterly proration still applies per the chart in A3, above.

The quarters align with the entity's Performance Year, as some states that elect to use this policy have different PY's. For FMCSA, the quarters are as follows:

- Q1 is June, July, and August.
- Q2 is September, October and November
- Q3 is December, January and February
- Q4 is March, April and May

**Q3c: Will the trainee be getting credit as a co-investigator/auditor when working with a coach?**

A3c: While all Safety Investigators (SI) will be listed in the tracking system, only the coach/certified SI will be credited with the investigation. The trainee's progress will have to be monitored and documented manually.

**Q4: All of the certifications by factor say “and”. Should it be “or”?**

A4: All factors, when indicated as covered on an investigation, contain parts. While the correct word is “and”, some parts not investigated will automatically be accounted for because they are connected to a specific factor (Unsafe Driving, HOS Compliance, Driver Fitness, Controlled Substance, Vehicle Maintenance, and Hazardous Materials). All parts indicated need to be investigated the appropriate number of times as indicated in the Initial and Maintenance of Certification Tables in the Policy.

**Q4a: Typically, during an investigation the Safety Investigator does not look at Part 393, as Part 393 is related to roadside inspections. Will computing the out-of-service (OOS) rate for a carrier meet the criteria for a Part 393 investigation?**

A4a: Investigating Part 393 could be covered by looking at vehicle inspections, OOS rates, and/or through the conduct of Level V Vehicle Inspections at the time of the investigation.

**Q4b: Will clearing a critical/acute violation from a previous investigation or making an assessment on a red flag driver meet the requirement for 391 and 383?**

A4b: For CDL, Authority, Insurance and red-flag drivers (CAIR), Parts 383, 387, and 390 are always checked. As for Part 391, if Driver Fitness is indicated, then Part 391 will also be covered.

**Q4c: Can shipper reviews be used for the HM criteria or do they not count because Parts 177 and 397 wouldn't apply?**

A4c: HM certification is accomplished by conducting either HM Supplementals or Full Comprehensive HM BASIC investigations pursuant to the eFOTM section 8.1.5.

**Q4d: Because investigations conducted in AIM account for “factors” which include the various parts investigated in Table 2, how can supervisors be assured that all indicated parts are investigated?**

A4d: During the performance year, SI's should make a concerted effort to conduct the required number of “parts investigated” investigations to maintain certifications. While the present tracking system will account for parts investigated based on the parts in the factor indicated, it is our intention to look further into the way AIM tallies investigations. Until then, it will be an “honor system” approach.

**Q4e: The Initial & Maintenance Certification Table 2 show the following numbers to be met for each Section:**

**General: Parts 387 and 390 – Initial -3; Maintenance- 4**

**Driver: Part 382, 383, and 391 – Initial – 3; Maintenance 6**

**Operational: Parts 392 and 395 – Initial – 3; Maintenance – 6**

**Vehicle: Parts 393 and 396 – Initial- 3; Maintenance – 6**

**Hazardous Materials: Conduct a HM Supplemental or Full Comprehensive HM BASIC Investigation – Initial – 2; Maintenance – 2**

**Crash Factor: Recordable Rate: Initial-3; Maintenance- 3**

**Each Compliance investigation requires CAIR (CDL, Authority, Insurance, and Red Flag Drivers) to be conducted. Would an investigator get credit for Parts 383, 392, 387 and possibly Part 391?**

A4e: AIM accounts for Parts 383, 387, and 390 as part of CAIR. Because an investigator must establish applicability for a carrier of the regulations for a particular carrier, the part referenced may be considered investigated. Parts 391 and 392 are not referenced in AIM for CAIR.

**Q4f: Driver Factor: Parts 382, 383, and 391 –**

**For Driver Factor (Parts 382, 383, and 391), Operational Factor (Parts 392 and 395);**

**Vehicle Factor (Parts 393 and 396); and Crash Factor (Recordable Rate); would Crash**

**BASIC Investigation (CBI) samples meet the requirements for the “successfully completed investigations relating to each part using the applicable investigation sampling procedures...” for each respective part?**

A4f: Yes, as long as the investigation is conducted according to the CBI policy MC-ECS-2015-0008, issued September 28, 2015. For the Crash Factor, both CBI and non-CBI investigations can be counted, as long as the crash rate is calculated.

**Q4g: Large carriers – For carriers where onsite sampling is required, and the carrier has a large sample of drivers that must be reviewed (i.e.: Carrier has 140 interstate drivers and is in alert in several BASICS with Driver Qualifications being one of them), the sample is 20 driver qualification files. Has there been and will there be, consideration for giving credit for more than one “successfully completed investigation” in a particular section for this category of carriers?**

A4g: No. Equivalencies are performance criteria, not certification criteria. Therefore, one part investigated is one part investigated regardless of carrier size.

**Q4h: Safety Audits (SA): Are all Safety Investigators (SI) required to conduct Safety Audits (SA)?**

A4h: No.

**Q4i: If the answer to Q4h is “NO”, for SI’s who conduct SAs, would the equivalency of 4/5 SAs = 1 Comprehensive Investigation/Comprehensive Review and cover all Parts 390, 382, 383, 387, 391, 392, 393/396, and 395? AND/OR, for SIs who are involved in the supervision of employees new to the New Entrant Review process, would they get credit for the sections covered during a Safety Audit (383, 382, 387, 390, 391, 392, 393/396, 395 and HM if applicable) since the first 9 must use onsite sampling protocols.**

A4i: There is no consideration given in the policy for “equivalencies”, as this is a performance standard and not a certification standard. Credit for a “part investigated” is determined when the part is investigated. As for who earns the credit during initial certification, refer to Q3c above.

**Q5: In attachment A, Table 3, Certification to Conduct Specialized Review Requirements, does an investigator have to complete 3 specialized investigations in each category (HHG, CTFR, ADAR) totaling 9, OR do you have to complete a total of 3 specialized investigations and you can mix and match to get three? For example, can I complete 2 ADARs and 1 HHG and have met my requirements for Specialized Reviews?**

A5: Each Specialized Review Certification has its own requirements. Thus, an investigator needs to complete the number of investigations specified for **each** type of Specialized Review in Table 3 to be certified.

**Q5a: If an Investigator has not had HHG, CTFR and/or ADAR training how will they receive training? Are there any plans for pushing out training courses for these specialized areas in preparation for Investigators to become certified? For HHG and ADAR, training requirements are already in place.**

A5a: The training requirements are found in section D.3 of the policy as follows:

### **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.

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.

**Q5b: If an investigator has had the HHG, CTFR and/or ADA training, but it has been several years and they never completed the required initial investigations to become fully certified (due to lack of availability in their division area, lack of opportunity to shadow certified investigators, etc) are they considered certified by just having completed course?**

A5b: No. Except for HHG reviews, the requirements for Specialized Reviews were never waived. Refer to section F.4. for recertification after decertification requirements.

**Q5c: In Table 2, Certification to Conduct Investigation Requirements – Using the Operational Factor: The investigator is required to do 6 investigations which include the Operational Factors (Parts 392 and 395). Does this mean if I have completed 3 investigations which reviewed Part 392 and 3 other investigations which reviewed Part 395, I have met the maintenance requirement of 6 reviews in the Operational Factor?**

A5c: The investigator is required to complete 6 reviews of EACH part for maintenance of certifications: Six of Part 392 AND six of Part 395.

**Q6: Assuming that Gotham will not be tracking the completion of the various Parts in each Factor, will there be a tracking system (Excel spreadsheet, information that can be pulled from Gotham/MCMIS) to help FPS's/DA's track an SI's maintenance requirement status throughout the performance year? How will the service centers be verifying certifications for investigators?**

A6: We are working to get the tracking mechanism in place in GOTHAM no later than August 2022. Volpe is also working on an interim spreadsheet-like tracking for use between June 1 and the August implementation. As soon as it is available, the field will be notified.

**Q7: The policy states that “A HM supplemental review qualifies in demonstrating proficiency in the regulations and policies applicable to this factor”. There are quite a few investigations that are flagged for HM supplementals due to the carrier listing HM on their MCS-150 and the carrier not having had an HM investigation in a few years. Most notably are automobiles (class 9) and batteries (class 8), which are excepted from the majority of the HM regulations when transported according to certain allowed exceptions. To confirm the exception, the investigator still reviews the HM table and goes to the relevant exception section of the regulations. Per this new policy it would appear that a supplemental HM investigation on a car-hauler or battery transporter will count as one of the two required to maintain certification. Is this correct?**

A7: Refer to the series of questions and answers above in Q4 – Q4i for direction on HM Investigations. It is recommended that HM carriers assigned for investigation have at least one BASIC (preferably HM, Crash, or Unsafe Driving) in alert status.

**Q8: When looking at the footnote for Initial Certifications, it states:**

<sup>1</sup> 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.

How can anyone be the “supervising employee” for parts investigated required for HM certification?

A8: Because this is an entirely new certification requirement, no one will initially meet the standard. It was not the intention to have anyone start from scratch, presently-certified investigators can self-certify the initial HM certification and then move on to maintenance. It is strongly suggested to work with your respective Hazardous Materials Specialists (HMS) and/or Hazardous Materials Program Manager (HMPM) during this initial phase-in to ensure enforcement integrity. Once investigators successfully complete their initial requirements, they can move on to the maintenance requirements. For new investigators either just coming out of

the academy, or reaching the GS-11 rank, investigators who are certified can mentor them. Then after we have personnel HM certified, they can act as the supervising employee for others needing initial certification.

**Q9: Does FMCSA have input into the changes to the Commercial Vehicle Safety Alliance (CVSA) Operational Policy 4 – Inspector Training and Certification?**

A9: FMCSA representatives participate on various committees of CVSA and provide input and recommendations. In addition, the Associate Administrator for Safety is a member of the CVSA Executive Board.

**Q10: Does FMCSA issue CVSA decals?**

A10: Yes, the Office of Safety purchases CVSA decals for use by FMCSA inspectors and investigators who are certified to conduct vehicle inspections. Contact your Division Office for further information on obtaining CVSA decals prior to conducting roadside inspections.

**Q11: How many cargo tank inspections need to be completed for re-certification?**

A11: Eight specification cargo tank inspections, as defined in Operational Policy 4, must be conducted annually for cargo tank re-certification.

**Q12a: If an FMCSA employee has not completed the certification requirements for a Level 1 inspection, can they still conduct Level 3 inspections?**

A12a: No. FMCSA employees must be certified to conduct Level I inspections in order to conduct Level I, II, III, IV and V inspections. Non-Federal entities may elect to certify their inspectors to specific levels.

**Q12b: Do non-Federal personnel performing only terminal investigations and audits, and who do not have the authority to perform Level I inspections at roadside, have to maintain Level I certification in order to maintain certification to perform investigations and audits? Is there any relief for these investigators to be able to perform Level V inspections in lieu of the required Level I's?**

A12b: Non-FMCSA employees are permitted to be certified to conduct driver/vehicle inspections to the highest level required by the employing entity.

**Q13a: How are offsite safety audits considered in this policy?**

A13a: Off-site safety audits *will count* towards an auditor's maintenance of certification. **Safety auditor maintenance of certification requires a minimum of 18 safety audits, all of which may be offsite safety audits.** Please review the Safety Audit Certification and Maintenance section in Attachment A, section D - **CERTIFICATION REQUIREMENTS: SAFETY AUDITS, INVESTIGATIONS, & SPECIALIZED REVIEWS**, and Table 1 – **Certification to Conduct Safety Audits Requirements.**



**Q14: Waivers to the inspection certification have been available for Safety Investigators who have had physical limitations. Will these waivers still be available?**

A14: Yes. At the discretion of the Agency, a waiver may be granted to a person who was previously certified and became decertified due reasons beyond his/her control.

**Q15: How many supervised and unsupervised inspections are required to achieve initial certification to conduct Level 1 inspections?**

A15: Thirty-two (32) CVSA Level I inspections must be conducted under the supervision of a certified inspector and signed by the certified inspector within 6 months of graduation from the academy to satisfy the *initial training* requirements. In addition, for the maintenance of inspections an additional 32 inspections must be conducted by the new inspector/investigator within the current performance year, although this number may be prorated dependant on the completion date of the 32 inspections that make up the initial training requirement.

For example, an FMCSA investigator graduates from the Academy by the end of March. The 32 inspections under the supervision of a certified inspector must be completed within 6 months. In this case, our example assumes that the initial 32 inspections took the full 6 months, and were completed by the end of September. That leaves 8 months remaining in the certification/performance year (the certification / performance year ends May 31). Therefore, based on the chart below, a minimum of 21 independent inspections are required in this example for the individual to complete initial certification and satisfy maintainance of certification requirements.

<b>FMCSA Certification Chart</b> <b>Number of CVSA Level I Inspections Required for Certification</b>	
<b>The Month Initial 32 Completed Under Supervision Is:</b>	<b>Number of Independent inspections required:</b>
May	0/32 the next year
June	29
July	27
August	24
September	21
October	19
November	16
December	13
January	11
February	8
March	5

As another example using the chart above, if the FMCSA investigator graduates from the Academy in March, and completes the initial 32 inspections under supervision in less than 6 months, for example in June, the investigator would need to complete a minimum of 29 independent inspections before the end of May of the next year.

**Q16a: Does the same schedule for completion of inspections apply to those needed for specialized certifications, such as Passenger Carrier, Hazardous Materials and Cargo Tank?**

A16a: Yes. After completion of a specialized course, the inspector must complete the requisite number of inspections with an inspector certified in the specialty within 6 months of completing the specialized course. Then, for the purpose of maintenance of certification, the requisite number of inspections will need to be completed during the remainder of the current certification / performance period. However, due to the minimal number of inspections needed for maintenance of certification, combined with the ability to combine inspections (eg: conduct a Level 1 inspection on a cargo tank transporting placarded hazardous materials, which counts towards maintenance of Level 1, Hazmat and Cargo Tank certifications), prorating is allowed for the specialized certifications only if the months in which the initial certifications are completed are February, March or April, per the chart in Q15.

Example 1: An inspector / investigator completes the Passenger Carrier course prior to end of July. The initial 8 inspections needed for certification need to be completed prior to the end of January. The inspector would need to complete 8 additional inspections in his / her own name prior to the end of the performance / certification period, which is the end of May.

Example 2: An inspector / investigator completes the Passenger Carrier course prior to the end of September. The initial 8 inspections needed for certification need to be completed prior to the end of March. The inspector would need to complete the 5 additional inspections in his / her own name prior to the end of the performance period, which is the end of May.

Note: For Hazardous Materials and Cargo Tanks, initial certification requires the conduct of 16 inspections each, while maintenance of certification requires 8 each. Therefore, Passenger Carrier, Hazardous Materials and Cargo Tank maintenance of certification immediately following initial certification all follow the prorated schedule as stated above.

**Q17: What version of CVSA operational policy 4 do we use?**

A17: At this time, FMCSA has adopted CVSAs' Operational Policy 4 – Inspector Training and Certification, revised April 29, 2021. As CVSA updates Operational Policy 4, FMCSA will adopt the newest version and distribute accordingly.

**Q18: Does the fact that CVSA's certification standards require non-FMCSA and FMCSA employees to complete required inspections within 6 months of passing required training?**

A18: The 32 inspections that must be completed under a certified inspector must be completed within the first 6 months from the date of first availability (e.g.: passing a course; graduating from an academy), while the additional 32 inspections must be completed within the 12-month certification period and as prorated per the chart in Q15 , under the inspector/auditor/investigator's own name.

**Q19: Who exactly do the Maintenance of Certification standards apply to for Commercial Enforcement Investigations? Do they apply to anyone attempting to maintain the ability to conduct Commercial Enforcement investigations (including Commercial Enforcement Specialists) or just Commercial Enforcement Specialists?**

A19: The standards apply to anyone attempting to maintain the ability to conduct Commercial Enforcement investigations.