



# **WELCOME TO THE MONTHLY “TRUCK STOP” WEBINAR**

**Truck Stops are presented the  
second Thursday of each month at 2:00pm ET**

**These webinars are open to members of the MCIEF**



**These webinars are presented as industry updates, for informational purposes only, and do not qualify for state CE credits.**

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**Visit our website**  
**<https://mcief.org/>**

**Or email**  
**[TRS@MCIEF.org](mailto:TRS@MCIEF.org)**



**If you have any questions, please type them  
in the “chat” window.**

**They will be answered as time allows  
or responded to after the webinar via email.**

**If you experience audio problems,  
please send us a note  
in the “chat” window or call 800-741-4084.  
We will attempt to correct the problem  
as soon as possible.**





## DataQs and the Crash Preventability Determination Program

Presented by  
Bridgette M. Blich, Esq.  
Blich Westley Barrette S.C.



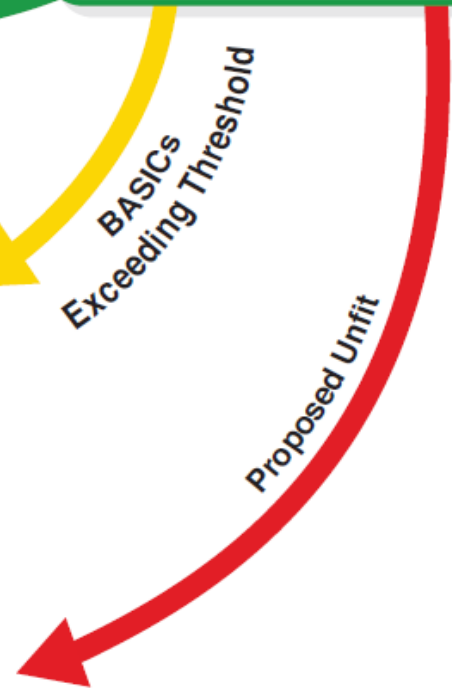
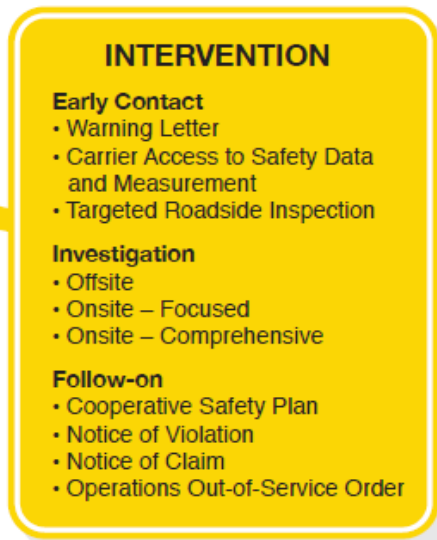
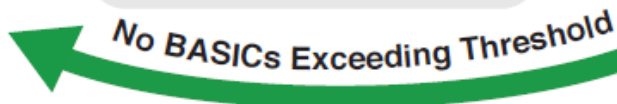
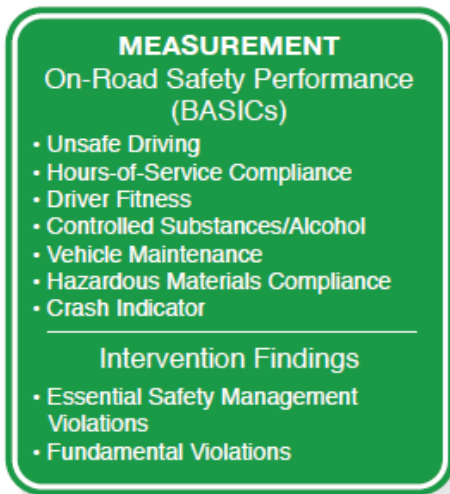
# What are We Talking About?



Inspections



Crashes



# Why DataQ?

- File challenges about inspections;
- File challenges to citations;
- File challenges to crashes\*



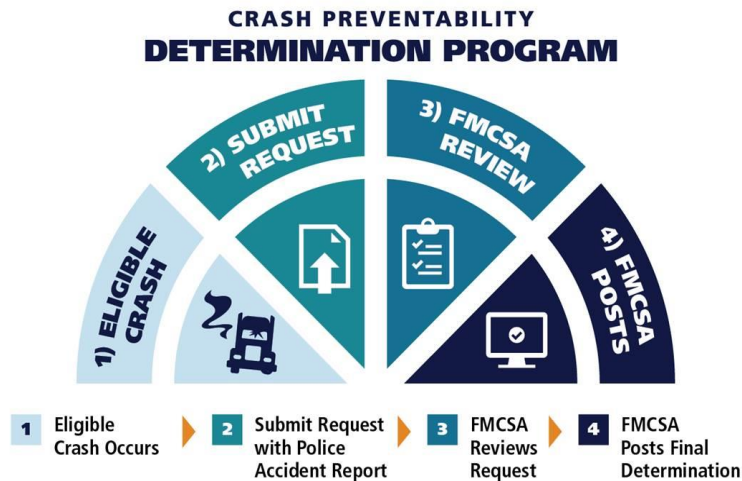
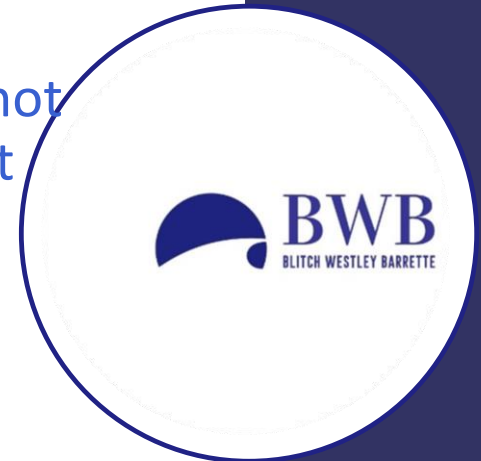
# Overview

- DOT requires a crash report for all holders of DOT#'s when a crash happens with any of the following criteria
  - Fatality
    - Someone dies at the crash site
  - Injury
    - Someone has to be removed from the crash site for medical treatment
  - Tow
    - A unit (car, tractor, trailer) has to be towed from the crash site





- FMCSA is accepting Requests for Data Review (RDRs) through the DataQs system for crashes that occurred on or after August 1, 2019.
- RDRs must include a police accident report (PAR) as evidence that a crash is Not Preventable.
- Drug and alcohol test results are required for fatal crashes.
- Other suggested documentation includes, but is not limited to:
  - Videos (max 5 MB)
  - Pictures
  - Court documents




# Getting Started

The screenshot shows the FMCSA DataQs website. At the top, the FMCSA logo and name are displayed, along with a search bar and navigation links for 'Home' and 'Help Center'. The main heading is 'Request a Review of FMCSA-Issued Data Here'. Below this, there are several sections: 'New to DataQs?' with links for account types, 'Already Signed Up?' with login options and fields for 'USERNAME' and 'PASSWORD', and 'What's New' featuring the 'Crash Preventability Determination Program' with a circular diagram showing steps: 1) ELIGIBLE CRASH, 2) SUBMIT REQUEST, 3) FMCSA REVIEW, and 4) FMCSA POSTS FINAL DETERMINATION. A 'Learn More' link is provided. A navigation bar includes 'What's New', 'Data Quality', 'Analyst Guide', 'SMS', and 'PSP'. The bottom section, 'What can DataQs do for you?', features four categories: 'Motor Carriers', 'Drivers', 'FMCSA & State Partners', and 'Public & Industry', each with a representative image.



# Create Profile

 **FMCSA**  
Federal Motor Carrier Safety Administration

**DataQs**

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## Create your DataQs Account Profile

If you have previously signed up for a DataQs account or a Portal account, go back and [log in](#) with your username and password. To sign up for a DataQs account, you must create a user profile by providing the information requested below. However, if you are a motor carrier user, including IEPs registered as a motor carrier and owner/operators, then you must sign up for an [FMCSA Portal account](#) and request the DataQs role. Providing false or wrongful information may result in termination of your account. You can view the Federal Motor Carrier Safety Administration's (FMCSA) full privacy at <http://www.dot.gov/privacy.html>.

### DataQs Account Profile

#### Personal Information

First Name: \*  Middle Name:  Last Name: \*

#### Address

Business  Home

Address Line 1: \*  City: \*

Address Line 2, if any:  Country: \*

Company Name:  State: \*  Zip/Postal Code: \*

#### Contact Information

Telephone: \*  Extension:   Work  Home  Mobile Fax:

#### Account Information

What type of user are you?: \*  
If you are a motor carrier, IEPs registered as a motor carrier, or an owner/operators, then you must sign up for an [FMCSA Portal account](#) and request the DataQs role.

\* - Field is required



A

## Click “My DataQs”

To submit or monitor a Request for Data Review (RDR), click **My DataQs**.

**DataQs** Home | **My DataQs** | Help Center | Reports

### My Profile

Logged in as: [Name] | Log out

### Help Center

Instructions, FAQs, and other materials to help you navigate this website

### Analyst Guide

A practical guide for Federal and State data quality practitioners.

### Crash Preventability Determination Program

## Request a Review of FMCSA-Issued Data Here

DataQs allows you to request and track a review of Federal and State data issued by FMCSA that you feel may be incomplete or incorrect. The system automatically forwards your Request for Data Review (RDR) to the appropriate office for resolution and collects updates and responses for current Requests.

### Data Quality

By using DataQs, you are helping to improve the quality of data used by FMCSA. Learn more about how FMCSA measures and improves the quality of motor carrier data that it displays to the public and that supports its safety programs.

Data Quality →

State Rating Legend:  
Good (Green)  
Fair (Yellow)  
Poor (Red)

What's New | **Data Quality** | Analyst Guide | SMS | PSP

The following information is available at <https://www.fmcsa.dot.gov/sites/fmcsa.dot.gov/files/2020-04/DataQs%20CPDP%20Submitters%20Job%20Aid.pdf>

# B

## Add a Request

To begin your request, click **Add a Request**.

The screenshot shows the 'My DataQs' user interface. On the left is a navigation sidebar with four items: 'My Profile' (Logged in as: Log out), 'Help Center' (Instructions, FAQs, and other materials to help you navigate this website.), 'Analyst Guide' (A practical guide for Federal and State data quality practitioners.), and 'Crash Preventability Determination Program' (Learn more about the Determination Program, the process for submitting an RDR, and how FMCSA will review crashes.). The main content area is titled 'My DataQs' and has a sub-header 'What would you like to do?' with a 'TAKE A TOUR' link. The first section is '1 Request a Review', which contains an 'Add a Request' button highlighted with a red box. Below this button, there is text explaining that clicking 'Add a Request' requests a review of data in a specific FMCSA system. It lists two categories of users: 'Motor carriers' who can access safety data in the following FMCSA systems: [Safety Measurement System \(SMS\)](#), [Safety and Fitness Electronic Records \(SAFER\) System](#), and [Portal website](#); and 'Drivers' who can obtain their data through the following FMCSA systems: [Purchase commercial driving history from the Pre-Employment Screening Program \(PSP\) website](#), or request it through a [Freedom of Information Act \(EOIA\) request](#) (learn more in the [Help Center](#)), and [Review drug and alcohol program violation information in the Drug and Alcohol Clearinghouse](#). The second section is '2 Monitor Requests', which explains that to monitor the status of a request, users should select 'Details' in the List of Reviews Requested below, and that only requests matching search criteria will be displayed.



## Select “Crash Event”

Select **Crash Event**, then **Next**.

### My Profile

Logged in as:  
Log out

### Help Center

Instructions, FAQs, and other materials to help you navigate this website.

### Analyst Guide

A practical guide for Federal and State data quality practitioners.

### Crash Preventability Determination Program

Learn more about the Determination Program, the process for submitting an RDR, and how FMCSA will review crashes.

## Add a Request - Step 1

1 - Select Event 2 - Select Type 3 - Confirm Selection 4 - Enter Details 5 - Submit Data 6 - Confirm Request

### What are you inquiring about?

Choose one of the event types you want to have reviewed.

Note: Many FMCSA systems are updated using a monthly snapshot of the Motor Carrier Management Information System (MCMIS). Data corrections made as a result of a DataQs request will be reflected in a subsequent update of the respective FMCSA system. Check the website of that FMCSA system to determine the latest update.

**Event Type**

- Crash Event
- Inspections/violations (including requesting a copy of a report)
- Warnings

**Non-Roadside**

- U.S. DOT Audit/Investigation (examples include: safety audits, compliance reviews and CSA Investigations)
- Registration/Insurance
- Household Goods Complaints

**Drug and Alcohol Clearinghouse**

- Submit a petition contesting the accuracy of information reported in the Clearinghouse

**None of the above**

- I don't know

**Caution**

Company officials will be notified of any requests related to their U. S. DOT Number if they have a validated DataQs account. Read this related [FAQ](#) for more information.

**Warning**

Any intentionally false or misleading statement, representation, or document that you provide in support of this DataQs request may subject you to prosecution for violation of Federal law punishable by a fine of not more than \$10,000.00 or imprisonment of not more than 5 years, or both (18 United States Code 1001).

By clicking submit, you certify that the statements and information you are submitting in support of this request are, to the best of your knowledge, true, accurate, and complete.

Cancel **Next** →



## Select State and Complete At Least One Data Field

### Add a Request - Step 3

1 - Select Event 2 - Select Type 3 - Confirm Selection 4 - Enter Details 5 - Submit Docs 6 - Confirm Request

#### Confirm Selection

You have selected "Crash could not be prevented".

Please note that you must provide a Police Accident Report in order to submit your request. If one is not readily available, you will be able to save a draft of your request. You can return later to add additional documents by accessing the List of Reviews Requested on the My DataQs page.

Select the State in which the crash occurred.

Enter at least one of the following, then click **Search**:

- U.S. DOT #
- FMCSA Crash Report Number\*
- Crash Event Date
- Vehicle State and Plate

Select the State in which the crash occurred:

Crash Event State \* CA-California

U.S. DOT # 00000

(Max 10 numbers)

FMCSA Crash Report Number

(10-12 characters)

Crash Event Date

(MM/DD/YYYY)

Vehicle State and Plate

Search

*\*Note: This number is not the number on the police accident report. You can find the FMCSA Crash Report number on the motor carrier profile in the Portal and on the Safety Measurement System. It is also available for drivers on their Pre-Employment Screening Program (PSP) report.*



## Select State and Complete At Least One Data Field

### Add a Request - Step 3

1 - Select Event 2 - Select Type 3 - Confirm Selection 4 - Enter Details 5 - Submit Docs 6 - Confirm Request

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- FMCSA Crash Report Number\*
- Crash Event Date
- Vehicle State and Plate

Select the State in which the crash occurred:

Crash Event State \* CA-California

U.S. DOT # 00000  
(Max 10 numbers)

FMCSA Crash Report Number  
(10-12 characters)

Crash Event Date  
(MM/DD/YYYY)

Vehicle State and Plate

Search

*\*Note: This number is not the number on the police accident report. You can find the FMCSA Crash Report number on the motor carrier profile in the Portal and on the Safety Measurement System. It is also available for drivers on their Pre-Employment Screening Program (PSP) report.*



## F

### Locate Crash From List

Locate the crash from the list and select it by clicking the corresponding radio button.

- If the report for the crash is not listed, the request cannot be submitted yet. Check again later.
- If the crash occurred before 08/01/2019, it is not eligible. If you choose to move forward with a crash that occurred before 08/01/2019, DataQs will automatically close the request without review.

More than 25 crash records were found. Please refine your search.

	Report		Carrier Information		Vehicle		
	Date	Number	State	Name	U.S. DOT #	Plate Number	Plate State
<input type="radio"/>	09/05/2019	<a href="#">CA12345467</a>	CA	Motor Carrier, Inc.	00000	165D879	IN
<input type="radio"/>	08/31/2019	<a href="#">CA23456789</a>	CA	Motor Carrier, Inc.	00000	2W3E4R9	IN
<input checked="" type="radio"/>	08/21/2019	<a href="#">CA34567899</a>	CA	Motor Carrier, Inc.	00000	C2V3B48	IN
<input type="radio"/>	08/19/2019	<a href="#">CA45678990</a>	CA	Motor Carrier, Inc.	00000	23CV458	IN
<input type="radio"/>	08/01/2019	<a href="#">CA56789001</a>	CA	Motor Carrier, Inc.	00000	44V5BB6	OK
<input type="radio"/>	07/27/2019	<a href="#">CA67890123</a>	CA	Motor Carrier, Inc.	00000	7T8U9I	OK
<input type="radio"/>	07/25/2019	<a href="#">CA78901234</a>	CA	Motor Carrier, Inc.	00000	218902	IN
<input type="radio"/>	07/18/2019	<a href="#">CA89012345</a>	CA	Motor Carrier, Inc.	00000	875GY	OK
<input type="radio"/>	Report not listed						

**F****Locate Crash From List**

Locate the crash from the list and select it by clicking the corresponding radio button.

- If the report for the crash is not listed, the request cannot be submitted yet. Check again later.
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<input type="radio"/>	08/31/2019	<a href="#">CA23456789</a>	CA	Motor Carrier, Inc.	00000	2W3E4R9	IN
<input checked="" type="radio"/>	08/21/2019	<a href="#">CA34567899</a>	CA	Motor Carrier, Inc.	00000	C2V3B48	IN
<input type="radio"/>	08/19/2019	<a href="#">CA45678990</a>	CA	Motor Carrier, Inc.	00000	23CV458	IN
<input type="radio"/>	08/01/2019	<a href="#">CA56789001</a>	CA	Motor Carrier, Inc.	00000	44V5BB6	OK
<input type="radio"/>	07/27/2019	<a href="#">CA67890123</a>	CA	Motor Carrier, Inc.	00000	7T8U9I	OK
<input type="radio"/>	07/25/2019	<a href="#">CA78901234</a>	CA	Motor Carrier, Inc.	00000	218902	IN
<input type="radio"/>	07/18/2019	<a href="#">CA89012345</a>	CA	Motor Carrier, Inc.	00000	875GY	OK
<input type="radio"/>	Report not listed						

**G****Choose the Correct Crash Type**

Once you select your crash, a list of eligible crash types will appear. Select the appropriate crash type by clicking the corresponding radio button. Click **Next**.

If your crash type is not listed, it is not eligible for the program. Selecting **Scenario not listed** will end the submission process.

**Struck in the Rear** type of crash when the CMV was struck:

- in the rear
- on the side at the rear

**Wrong Direction or Illegal Turns** type of crash when the CMV was struck:

- by a motorist driving in the wrong direction
- by another motorist in a crash when a driver was operating in the wrong direction
- by a vehicle that was making a U-turn or illegal turn

**Legally Stopped or Parked** type of crash when the CMV was struck:

- while legally stopped at a traffic control device (e.g., stop sign, red light or yield) or parked, including while the vehicle was unattended

**Failure of the other vehicle to Stop** type of crash when the CMV was struck:

- by a vehicle that did not stop or slow in traffic
- by a vehicle that failed to stop at a traffic control device

**Under the Influence** type of crash when the CMV was struck:

- by an individual under the influence (or related violation, such as operating while intoxicated), according to the legal standard of the jurisdiction where the crash occurred
- by another motorist in a crash where an individual was under the influence (or related violation such as operating while intoxicated), according to the legal standard of the jurisdiction where the crash occurred

**Medical Issues or Distracted Driving** type of crash when the CMV was struck:

- by a driver who experienced a medical issue which contributed to the crash
- by a driver who admitted falling asleep
- by a driver who admitted distracted driving (e.g., cellphone, GPS, passengers, other)



## Choose the Correct Crash Type

Once you select

**Cargo/Equipment/Debris or Infrastructure Failure** type of crash when the CMV:

- was struck by cargo, equipment or debris (e.g. fallen rock, fallen trees, unidentifiable items in the road)
- crash was a result of an infrastructure failure

**Animal Strike** type of crash when the CMV:

- struck an animal

**Suicide** type of crash when the CMV:

- struck an individual committing or attempting to commit suicide

**Rare and Unusual** type of crash when the CMV:

- Was involved in a crash type that seldom occurs and does not meet another eligible crash type

**Scenario not listed**

- None of the above

Cancel

← Back

Next →

# CRASH PREVENTABILITY Determination Program



## CRASH TYPE ELIGIBILITY GUIDE

The Crash Preventability Determination Program (CPDP) will only accept crashes that occurred on or after August 1, 2019, and are one of the eligible crash types. FMCSA uses eligibility standards to ensure that crashes can be reviewed and analyzed consistently.

This guide provides examples to help you determine if your crash is eligible for submission to the CPDP, but does not include all crash scenarios that may be eligible. Please remember, if your crash is not eligible under one crash type, it may be eligible under another. However, if you submit a Request for Data Review (RDR) in DataQs for a crash that does not qualify for any of the eligible crash types, the RDR will not be reviewed by the Federal Motor Carrier Safety Administration (FMCSA) and the RDR will be closed.

The following information is available at  
<https://www.fmcsa.dot.gov/sites/fmcsa.dot.gov/files/2020-02/CPDP%20Eligibility%20Guide.pdf>

## STRUCK IN THE REAR EXAMPLES

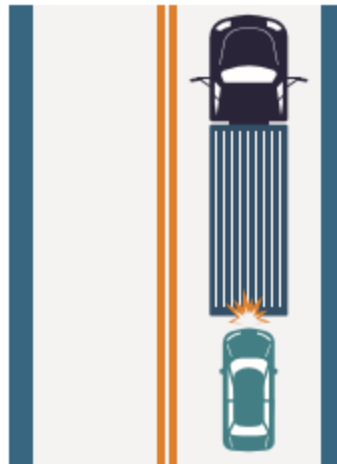
For a crash to be eligible under the selected type:

- The vehicle was traveling behind the Commercial Motor Vehicle (CMV) prior to the crash and strikes the CMV.

### Struck in the Rear

✓ ELIGIBLE

The vehicle that struck the CMV was driving directly behind the CMV and failed to stop in time.



### Rear Side Crash

✗ NOT ELIGIBLE

This scenario may be eligible under the [Struck on Side at Rear](#) crash type.

The vehicle that struck the CMV was traveling next to the CMV prior to the crash and struck the CMV on the side.

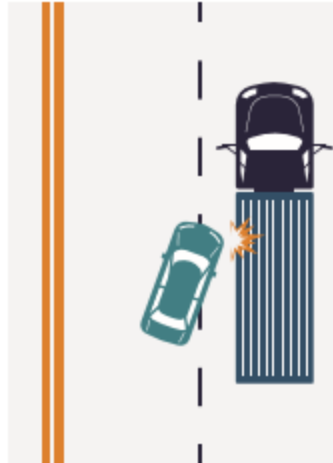


## STRUCK IN THE REAR EXAMPLES (CONTINUED)

### Struck in the Rear

**✗ NOT ELIGIBLE**

The vehicle struck the CMV on the side.



## WRONG DIRECTION EXAMPLES

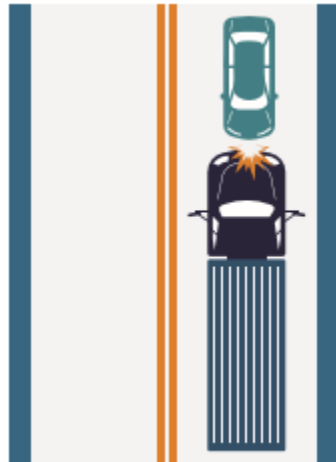
**For a crash to be eligible under the selected type:**

- The other vehicle must be driving in the wrong direction (e.g. northbound in the southbound lanes) AND
- The other vehicle must be completely in the wrong lane (i.e. not partially across the center line); or
- The vehicle in the crash was driving in the wrong direction (e.g. northbound in the southbound lanes) AND
- The vehicle was completely in the wrong lane (i.e. not partially across the center line).

### Over Center Line

✓ ELIGIBLE

The vehicle that struck the CMV was completely over the center line and traveling in the wrong direction when the crash occurred.



### Crossed the Median

✓ ELIGIBLE

The vehicle that struck the CMV drove over the median and was traveling in the wrong direction when the crash occurred.





## WRONG DIRECTION EXAMPLES (CONTINUED)

### Wrong Direction Multi-Vehicle Crash

✓ ELIGIBLE

Vehicle #1 is traveling in the same direction as the CMV on a multi-lane road.

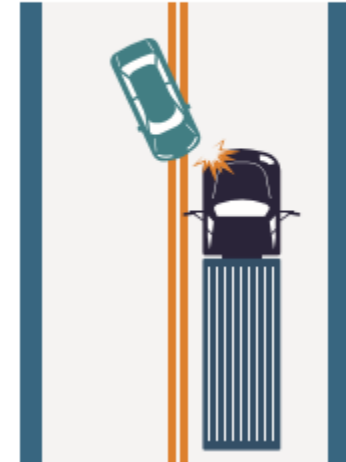
Vehicle #2 is traveling southbound in the northbound lanes, and strikes vehicle #1 causing vehicle #1 to strike the CMV.



### Not Fully Over Center Line

✗ NOT ELIGIBLE

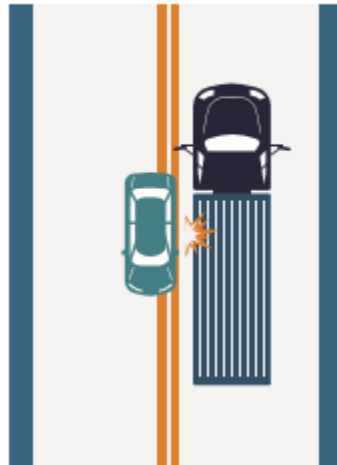
The vehicle that struck the CMV was not completely over the center line when the crash occurred.



### Opposing Direction Sideswipe

✗ NOT ELIGIBLE

The vehicle that struck the CMV was not completely over the center line when it side-swiped the CMV.



### CMV Struck in Intersection

✗ NOT ELIGIBLE

The vehicle that struck the CMV was traveling in the correct direction and in the correct lane.

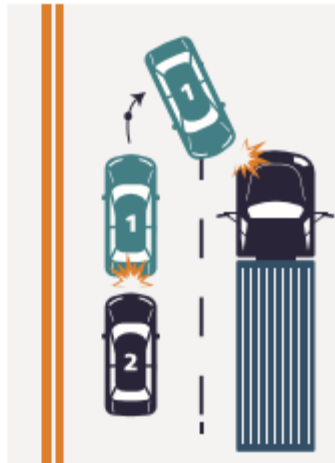


## Spin Out into CMV's Lane

**✗ NOT ELIGIBLE**

Vehicle #1 and vehicle #2 are traveling in the same direction as the CMV on a multi-lane road.

Vehicle #2 crashes into vehicle #1 causing it to spin and strike the CMV.



## STRUCK ON SIDE AT REAR EXAMPLES

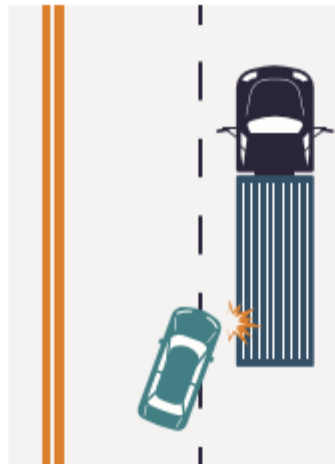
For a crash to be eligible under the selected type:

- The vehicle that struck the CMV was operating behind the CMV and struck it on the side at the rear of the vehicle (e.g., at the 5:00 or 7:00 positions).

### Side at the Rear Crash

✓ ELIGIBLE

The vehicle was changing lanes to move behind the CMV and struck the CMV at the 7:00 position.



### Side at the Rear Crash

✓ ELIGIBLE

The vehicle was merging into traffic and struck the CMV at the 5:00 position.



## MEDICAL ISSUES, FALLING ASLEEP, OR DISTRACTED DRIVING EXAMPLES

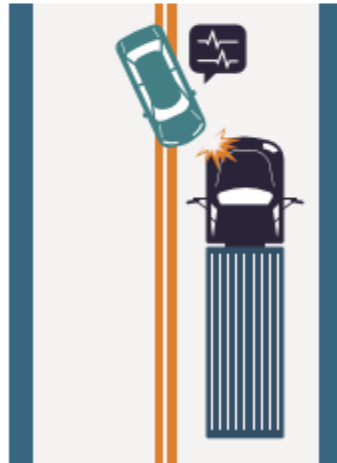
For a crash to be eligible under the selected type:

- The driver who struck the CMV experienced a medical issue which contributed to the crash; or
- The driver who struck the CMV admitted falling asleep; or
- The driver who struck the CMV admitted distracted driving (e.g. cellphone, GPS, passengers, etc.).

### Medical Issue

✓ ELIGIBLE

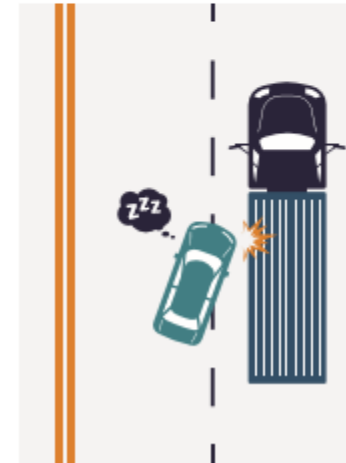
The CMV was struck by a driver who experienced a medical issue that was documented in the police accident report.



### Falling Asleep

✓ ELIGIBLE

The CMV was struck by a driver who admitted to falling asleep, and this was documented on the police accident report.



## MEDICAL ISSUES OR DISTRACTED DRIVING EXAMPLES (CONTINUED)

### Distracted Driving

✓ ELIGIBLE

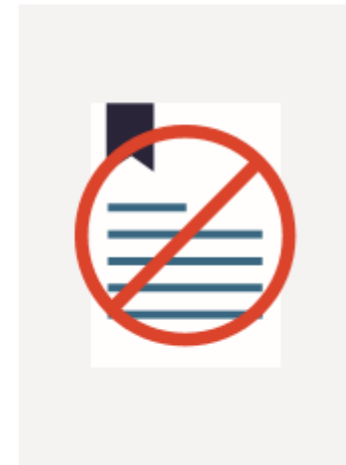
The CMV was struck by a driver who admitted to texting while driving, and this was documented on the police accident report.



### Lack of Documentation

✗ NOT ELIGIBLE

The police accident report does not document that the driver experienced a medical issue, admitted to falling asleep, or admitted to distracted driving (e.g. cellphone, GPS, passengers, etc.) prior to striking the CMV.



## STRUCK AN ANIMAL EXAMPLES

### THE CMV STRUCK AN ANIMAL

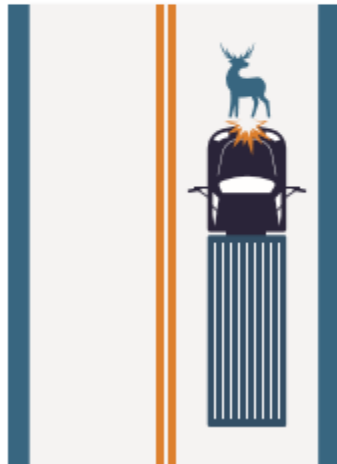
For a crash to be eligible under the selected type:

- The CMV struck an animal.

### Struck an Animal

✓ ELIGIBLE

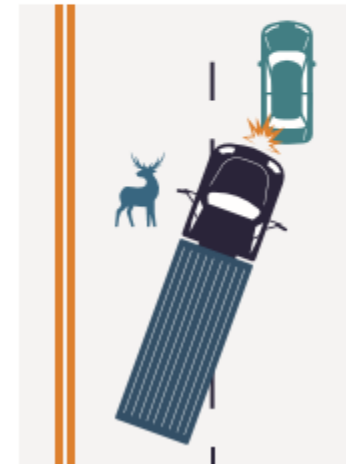
The CMV struck the animal.



### Avoiding an Animal

✗ NOT ELIGIBLE

The CMV attempted to avoid an animal and crashed into another object or ran off the road.



## SUICIDE OR SUICIDE ATTEMPT EXAMPLES

For a crash to be eligible under the selected type:

- The CMV must have struck an individual committing or attempting to commit suicide (i.e., documentation provides evidence that the individual committed or attempted to commit suicide).

### Suicide Attempt

✓ ELIGIBLE

The CMV struck an individual and the police accident report, or other provided documents, substantiates that the individual was attempting suicide.



### Lack of Documentation

✗ NOT ELIGIBLE

The police accident report or other documents provided does not substantiate that the individual struck was attempting suicide.





## Accept or Decline

A system message will appear asking you to confirm your selected crash scenario.

### Click **Accept**

- If you click **Accept** and submit a crash that is not one of the eligible crash types, it will not be processed by the CPDP.

### Click **Decline**

- If it is incorrect, and you will be returned to the **My DataQs** screen.

## Add a Request - Step 4



Your previously selected options result in a request type of: **Crash Preventability Determination Program**

The previously selected crash scenario: The CMV was struck in the rear by a motorist.

For a crash to be eligible under the selected scenario:

1. The vehicle was traveling behind the CMV prior to the crash and struck the CMV on the back plane.

I have read and agree to the above statements.

**Decline**

**Accept**





## Add Details

The form will automatically display details from the crash report. These are not editable. You may fill in the following optional information:

- Driver name
- Explanation of RDR:  
You may provide a short explanation of the crash and why it is eligible and not preventable.

Click **Next**.

Fields marked with an asterisk (\*) are required

Report Number \* CA CA34567899 12 characters maximum, includes State abbreviation

### Detailed Information from Crash Record

Date (MM/DD/YYYY) \* 09/05/2019 Time (HH:MM AM/PM) 0920  
City/Location RT210/ 3m W IRWINDALE AV County LOS ANGELES  
State \* CA-California Reporting Officer ID 20989

### Carrier Information from Crash Record

Carrier Name \* MOTOR CARRIER INC. U.S. DOT # \* 00000  
Address (Line 1) 123 MAIN STREET MC/MX #  
Address (Line 2)  
Country United States State Massachusetts  
City CAMBRIDGE Zip 02142

### Driver Information from Crash Record

Driver Name

### Crash Type

Crash Scenario The CMV was struck in the rear by a motorist.  
Number of Fatalities \* 0  
Number of Injuries \* C2V3B48  
Towaway \*  Yes  No  Unknown  
Vehicle Plate State Indiana  
Vehicle Plate A1B2C34

### Explanation of Request for Data Review

Explain the details of the crash:

**A**

## Submit a Police Accident Report

A police accident report (PAR) from a law enforcement agency is **required**. Upload the PAR by clicking **Choose File** under the **Required Documentation - Police Accident Report** section of the page and selecting the Police Accident Report from your computer. Leave the document title set at the default of "Police Accident Report (PAR)." Once you have selected your PAR, click **Upload**.

**DON'T HAVE A PAR? NEED TO FAX YOUR PAR? [SEE INSTRUCTIONS](#) ON PAGES 10-13 OF THIS DOCUMENT.**

### Submit Documentation

You have the option to upload any additional documentation below or after submission. Once you submit your request, you will also have the option to fax in documentation. Reviewers reserve the right to request additional information. Note: Submitted documentation should contain appropriate content and support the Request for Data Review (RDR).

Motor carriers or drivers must submit compelling information and documentation to show that the crash was Not Preventable. RDRs with no documentation will be immediately closed as not eligible.

Suggested documentation/evidence includes, but is not limited to:

- Police Accident Report (Required)
- Drug/Alcohol test results or explanation of missing test results for any fatal crash
- Copies of records or documents required by FMCSA per [§390.31](#)
- Reports from insurance company(ies)
- Media coverage
- Videos and/or pictures
- CDLIS report

#### Required Documentation - Police Accident Report (PAR)

To upload your documentation at this time:

1. Select file to upload:  No file chosen  
Allowable file size: 5MB  
Allowable file types: DOC, DOCX, PDF, TIF, TIFF, TXT, XLS, XLSX, WPD, ZIP  
Allowable image formats: GIF, JPEG, JPG  
Allowable video formats: AVI, MKV, MP4, MPEG, MPG, WMV
2. Enter a brief title:
3. Click upload
4. Confirm document is listed in table below

The following files have been uploaded for submission:

None uploaded.
----------------

#### Additional Documentation

**B****Submit Other Documentation**

Submit other documents that provide compelling evidence that the crash is eligible and not preventable.

To do so, click **Choose File** under the **Additional Documentation** section and choose a file from your computer. Once you have selected the additional file, select a title from the dropdown menu, **Title Suggestion**, and then click **Upload**. Do this for all additional documents you want to upload.

Documentation may include, but is not limited to: videos, pictures, insurance documents, court documents, affidavits, eye witnesses, etc. There is a 5MB file size limit.

**DRUG AND ALCOHOL TEST RESULTS ARE REQUIRED FOR FATAL CRASHES.**

These should be uploaded using the instructions above. If required, and you do not include test results or an explanation of why a test was not conducted, it may result in an Undecided or Preventable determination.

Once you are done uploading all of your documents, click **Next**.

**Additional Documentation**

To upload your documentation at this time:

1. Select file to upload:  No file chosen

Allowable file size: 5MB

Allowable file types: DOC, DOCX, PDF, TIF, TIFF, TXT, XLS, XLSX, WPD, ZIP

Allowable image formats: GIF, JPEG, JPG

Allowable video formats: AVI, MKV, MP4, MPEG, MPG, WMV

2. Enter a brief title, or select a suggested title from the dropdown menu on the right:

--Title Suggestion-- ▼

3. Click upload

4. Confirm document is listed in table below

5. Repeat steps 1-4 for each document or continue with submission of your request

The following files have been uploaded for submission:

None uploaded.

**A**

## Save Your Request as a Draft

Save your request as a draft by reading the Warning message and checking the box to indicate that you are submitting truthful information and understand the consequences for providing false or misleading information. Then click **Save Draft**.

### Supporting Documents

The following files have been uploaded for submission:

#### POLICE ACCIDENT REPORT

None uploaded.

#### OTHER DOCUMENTS UPLOADED

None uploaded.

#### Caution

Company officials will be notified of any requests related to their U. S. DOT Number if they have a validated DataQs account. Read this related [FAQ](#) for more information.

#### Warning

Any intentionally false or misleading statement, representation, or document that you provide in support of this DataQs request may subject you to prosecution for violation of Federal law punishable by a fine of not more than \$10,000.00 or imprisonment of not more than 5 years, or both (18 United States Code 1001).

\* By clicking this box, I certify/understand that the statements and information I am submitting in support of this request are, to the best of my knowledge, true, accurate, and complete.

Cancel

← Back

Save Draft

Submit

**B**

## Fax your PAR to FMCSA

Upon saving a draft, DataQs will display the following screen that provides a link to a cover sheet to be used when faxing your PAR. Follow the instructions on the screen.

**My Profile**  
Logged in as:  
Log out

**Help Center** →  
Instructions, FAQs, and other materials to help you navigate this website.

**Analyst Guide** →  
A practical guide for Federal and State data quality practitioners.

**Crash Preventability Determination Program** →  
Learn more about the Determination Program, the process for submitting an RDR, and how FMCSA will review crashes.

**Notifications** ⓘ  
The list below identifies Requests pending action from your agency.

**Request Saved**

1 - Select Event 2 - Select Type 3 - Confirm Selection 4 - Enter Details 5 - Submit Docs 6 - Confirm Request

**Your Request Was Successfully Saved**

**ID Number:** 2306550  
**Request Type:** Crash Preventability Determination Program

**What's Next?**

You have saved your request. To help expedite the review process, submit all of the documentation you may have to support your request. You may return to DataQs and upload or fax in documentation, or add a response with further details. The more information you provide now, the faster your request can be processed!

If the agency has further questions or requires any documentation, it will respond within DataQs and an email will be sent to you. If a response or documentation is requested, you can add that in DataQs by going to the request's [response page](#).

To fax your documentation:

1. Print the [Fax Cover Sheet](#) for request ID 2306550
2. Send fax to (202) 688-2675
3. Confirm fax was assigned to the request approximately 5 minutes after sending

When a final determination is made, you will see the annotation on the next update of the Safety Measurement System (SMS) website, which is updated monthly based on a snapshot of the data. The FMCSA Portal and Pre-Employment Screening Program (PSP) report will not reflect any determinations during the demonstration period.

**Add Another Request** **View Your Request** **Return to My DataQs**

**C**

## Upload PAR

If you want to upload your PAR to DataQs at a later date, you can locate your saved RDR by logging in to your account and visiting the **My DataQs page**, scrolling down to **List of Reviews Requested**, and searching for your **RDR by ID number or other criteria**. Select **Details** to return to the request.



## Enter Details

Enter the details of documentation in the space provided. To upload, click **Choose File** and select your PAR from your computer. Enter a brief title or select a suggested title from the dropdown ("Police Accident Report"). Click **Upload**. Once you are done uploading, click **Submit** to complete your request.

### IF THE REQUEST IS STILL A DRAFT

*If you submit or fax a document and the request is still a draft, you will need to make sure that there is at least one document designated as a PAR, add a response, and hit Submit. This will switch the RDR from Saved to Submitted.*

## Add Response/Documentation

*Fields marked with an asterisk (\*) are required.*

**Response Description\*** (4000 characters)

**Upload Document (optional):**

## Monitor the Status of Your RDR

You can log in to DataQs and monitor the status of your request at any time.

To monitor your requests, log in on the DataQs homepage using your FMCSA Portal or DataQs credentials. You can view the status of your request by visiting the **My DataQs page** in the top navigation and scrolling down to **List of Reviews Requested**, and searching for your RDR by ID number or other criteria.

Here are the following request status types:

- **Submitted:** FMCSA has received the RDR in the system but has not yet begun review.
- **In Review:** The RDR is in the review process.
- **Pending:** Requestor Response: FMCSA is waiting for the requestor to provide a document.
- **Closed: Not Eligible:** The crash did not meet the requirements of the CPDP.
- **Closed: No Requester Response:** FMCSA requested additional documents, and they were not received within 14 days.
- **Closed: Determination Made:** FMCSA completed its review of the crash and rendered a determination of Not Preventable, Preventable, or Undecided.

ID # SEARCH  [Go](#) [Advanced Search](#) [SAVE LAYOUT](#) [EXPORT](#)

1 Page 1 of 1, items 1 to 25 of 25.

	ID #	DETAILS	EVENT STATE	STATUS	TYPE	ENTERED
>	100000	<a href="#">Details</a>	CA	Crash Determination - Submitted	Crash Preventability Determination Program	
>	110000	<a href="#">Details</a>	CA	Crash Determination - Submitted	Crash Preventability Determination Program	

- FMCSA will:
  - Review all RDRs for eligible crashes;
  - Determine if crashes are Not Preventable, Preventable, or Undecided; and
  - Post final determinations to SMS within 60 days of the determination.
  - Post Not Preventable determinations to PSP within 60 days of the determination.





- **Not Preventable:** If a driver, who exercises normal judgment and foresight, could not have foreseen the possibility of the accident that in fact occurred, and could not have avoided it by taking steps within his/her control.

### STRUCK WHILE PARKED OR LEGALLY STOPPED EXAMPLES

For a crash to be eligible under the selected type:

- The CMV was parked, including when the vehicle was unattended; or
- The CMV was stopped at a traffic control device (e.g. stop sign, red light, yield, railroad crossing, or school bus).

#### Struck While Parked

✓ ELIGIBLE

The CMV was parked in a parking space when the vehicle struck the CMV.



#### Struck While Parked

✓ ELIGIBLE

The CMV was parked in the breakdown lane when the vehicle struck the CMV.



- **Preventable:** If a driver, who exercises normal judgment and foresight, could have foreseen the possibility of the accident that in fact occurred, and avoided it by taking steps within his/her control, which would not have risked causing another kind of mishap. This includes when the driver or CMV was legally prohibited from operating at the time of the crash, including if the post-crash inspection report shows there was an OOS violation.



**Hit by Another Vehicle Involved in an Accident**

**✗ NOT ELIGIBLE**

The CMV was hit by another vehicle that was not cargo.



**Crashed Avoiding Debris**

**✗ NOT ELIGIBLE**

The CMV struck another vehicle avoiding cargo/debris/equipment in the road.



- **Undecided:** If the documentation submitted did not allow for a conclusive decision by reviewers. This includes cases that are closed because the carrier did not provide additional information as requested.

#### INDIVIDUAL UNDER THE INFLUENCE EXAMPLES (CONTINUED)

##### Lack of Documentation

**✘ NOT ELIGIBLE**

The police accident report does not document that the driver that struck the CMV or contributed to the crash was under the influence as documented by an arrest, citation, failed sobriety test, or refusal of test.



## Use of Not Preventable Crashes in Crash Indicator BASIC Calculation

- Crashes found to be Not Preventable in the Determination Program will not be used when calculating the carrier's Crash Indicator Behavior Analysis and Safety Improvement Category (BASIC) measure and percentile, which FMCSA uses to prioritize carriers for safety intervention. These Not Preventable crashes will be shown separately in SMS.



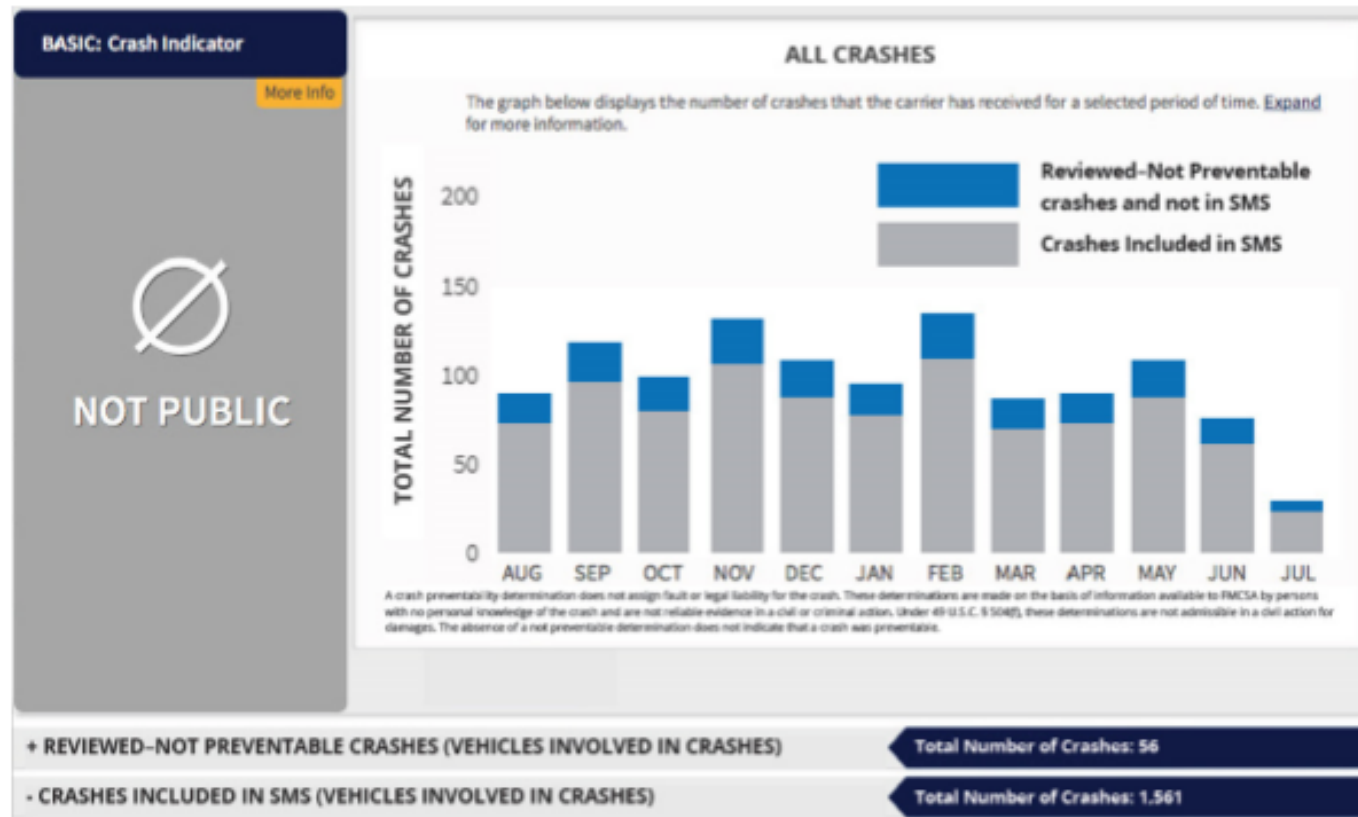
## Where to Find Preventability Determinations on SMS and PSP

FMCSA will post determinations to SMS within 60 days of the determination. Not Preventable determinations will be posted to PSP within 60 days of determination.

### SMS

On SMS, all crashes reviewed will include a notation about the final determination. In addition, crashes found to be Not Preventable in the Determination Program will not be included in the carrier's Crash Indicator Behavior Analysis and Safety Improvement Category (BASIC).

The Crash Indicator graph will display the total number of crashes with Reviewed – Not Preventable crashes not included in SMS in blue.



**CRASHES WILL BE DISPLAYED IN SMS IN TWO DISTINCT LISTS:**

- Crashes reviewed and found Not Preventable under Crash Preventability Determination Program and not used in SMS Crash BASIC, and

**- REVIEWED-NOT PREVENTABLE CRASHES (VEHICLES INVOLVED IN CRASHES)**

Total Number of Crashes: 56

FMCSA reviewed these crashes as part of the Crash Preventability Determination Program and determined they were Not Preventable. These crashes are not included in the Crash Indicator BASIC calculation.

Report			Vehicle		Crash			
Date	Number	State	Plate Number	Plate State	Fatal	Inj.	Tow.	HM
08/29/2019	<a href="#">RI123456789</a>	RI	12568901	IN	0	0	Yes	No
08/29/2019	<a href="#">TN123456789</a>	TN	34679011	IN	0	0	Yes	No
08/15/2019	<a href="#">NY123456789</a>	NY	23239081	IN	0	0	Yes	No
08/15/2019	<a href="#">AL123456789</a>	AL	1A3D4H	OK	0	1	Yes	No

## SMS (Continued)

- Crashes used in SMS (all except those found Not Preventable under Determination Program).

- CRASHES INCLUDED IN SMS (VEHICLES INVOLVED IN CRASHES)										Total Number of Crashes: 1,561	
<p>To filter your Crash History based on severity, select the severity below. You can also sort your data by Date, Report Number, Vehicle Type, etc.</p>					<p>To see crashes that FMCSA has reviewed for participation in the Demonstration Program or reviewed and were determined Undecided or Preventable in the Determination Program, select the determination below. Crashes that were reviewed during the Demonstration Program are not removed from the Crash Indicator BASIC calculation.</p>						
<input checked="" type="radio"/> All Crashes (1,561)                 (or) <input type="radio"/> Fatal Crashes (39) <input type="radio"/> Injury Crashes (512) <input type="radio"/> Towaway Crashes (1,010)					<input checked="" type="radio"/> All Crashes (or) <input type="radio"/> Not Preventable-Demonstration Program <input type="radio"/> Undecided <input type="radio"/> Preventable						
Report			Vehicle		Crash				Measure = $\frac{\text{Sum of the Total Weight (TW)}}{\text{Avg. PU} \times \text{UP} = 17,314}$		
Date	Number	State	Plate Number	Plate State	Fatal	Inj.	Tow.	HM	Severity Weight (SW)	Time Weight (TW)	Total Weight (TOW)
7/8/2019	IN123456789	IN	64G97	OK	0	1	Yes	No	2	3	6
7/4/2019	NV123456789	NV	8297402	IN	0	0	Yes	No	1	3	3
7/3/2019	MN123456789	MN	8393792	IN	0	0	Yes	No	1	3	3
7/3/2019	GA123456789	GA	2387394	IN	0	0	Yes	No	1	3	3
7/1/2019	CA123456789	CA	9384930	IN	0	0	Yes	No	1	3	3
6/30/2019	KY123456789	KY	7JD932	OK	0	0	Yes	No	1	3	3
<p>↳ Not Preventable: FMCSA reviewed this crash and it determined that it was not preventable</p>											

**LEARN MORE**

**Where can I find more information on the Crash Preventability Determination Program?  
[www.fmcsa.dot.gov/crash-preventability-determination-program](http://www.fmcsa.dot.gov/crash-preventability-determination-program)**





# What's there to Lose?

- The benefit to be gained by the submission of a successful RDR, however, could be quickly outweighed by the consequences of not only the use of information submitted by the motor carrier to the FMCSA, but also the subsequent use of an agency ruling.



# Subsequent Use of a DataQ Challenge

- Another factor to determine whether you want to challenge an FMCSA score is whether anyone else, particularly a plaintiff's attorney will attempt to obtain any information you provided to the FMCSA to challenge a score or attempt to put any report generated by the FMCSA in response to the challenge into evidence at a civil trial



# Discovery Tools

- One method of trying to obtain this information would be serving interrogatories asking if the carrier contested the finding of the FMCSA related to a particular accident and follow up document requests for the same.



# Discovery Tools

- This line of discovery is likely ‘reasonably calculated to lead to the discovery of admissible evidence” under Rule 26, any and all documentation, expert reports, diagrams etc., submitted to the FMCSA in support of the carrier’s challenge to the FMCSA determination.



# Civil Immunity

- 49 U.S.C. 504(f):

“No part of a report of an accident occurring in operations of a motor carrier, motor carrier of migrant workers, or motor private carrier and required by the Secretary, and no part of a report of an investigation of the accident made by the Secretary, may be admitted into evidence or used in a civil action for damages related to a matter mentioned in the report or investigation.”



# Civil Immunity

- Determinations are not a measure of fault.

“The crash preventability determinations made under this program are intended only for FMCSA's use in determining whether the program may improve the Agency's prioritization tools. These determinations are made on the basis of information available to FMCSA at the time of the determination and are not appropriate for use by private parties in civil litigation. These determinations do not establish fault or negligence by any party and are made by persons with no personal knowledge of the crash.”



# Case Example

In response to a Motion to Dismiss, the U.S. District Court, M.D. Pennsylvania ordered a Plaintiff to amend its Complaint to change any reference to the word “preventable” to the word “avoidable” when referencing the alleged accident involving a CMV. The court found this to be “an appropriate solution to remov[ing] this particular term of art...”  
Vorobey v. Cleveland Bros. Equip. Co., No. 4:18-CV-00865, 2018 WL 6436717, at \*3 (M.D. Pa. Dec. 7, 2018).



# Privileges

- Work Product Doctrine (F.R.C.P. 26(b)(3)): Ordinarily, a party may not discover documents and tangible things that are prepared in anticipation of litigation or for trial by or for another party or its representative (including the other party's attorney, consultant, surety, indemnitor, insurer, or agent).
- Attorney Client Privilege: (1) Where legal advice of any kind is sought (2) from a professional legal adviser in his capacity as such, (3) the communications relating to that purpose, (4) made in confidence (5) by the client, (6) are at his instance permanently protected (7) from disclosure by himself or by the legal adviser, (8) except the protection be waived.





# Review of Case Law

- Several cases illustrate methods by which records and findings made by the government agencies can be obtained and how the findings of the agency can be used in evidence.
- Unfortunately, these cases indicate that Plaintiff's counsel may have a far easier time of doing this than one would suppose.



# RDR – Not a Determination of Fault

- “ Fault is generally determined in the course of civil or criminal proceedings and results in the assignment of legal liability for the consequences of a crash. By contrast, a preventability determination seeks to identify the root causes for a crash and is used to prevent the same type of crash from re- occurring. A preventability determination is not a proceeding to assign legal liability for a crash.”

Federal Register Notice dated July 17, 2017



# Proceed with Caution

- Motions in Limine
  - Courts are allowing these determinations into the proceedings
  - Rulings: Findings of FMCSA go to weight, not admissibility
  - Result: battle of the experts



# What's The Answer?



## Best Practices – After the Accident Happens

- Retain independent transportation law counsel for your company.
- Consult with your counsel on whether to DataQ. Regardless of whether a lawsuit has been filed on a crash, the submission of the RDR and supporting documents, as well as the subsequent determination, could be used in future litigation if the statute of limitations has not expired.



## Best Practices – After the Accident Happens

- Motor carriers should also work with the insurance adjuster before submitting the RDR.
- In the event that information is submitted and later used against the motor carrier in court, the insurer could find they have been prejudiced in the action taken by their insured motor carrier, and possibly establish a basis to deny coverage.



## Best Practices – After the Accident Happens

- If a lawsuit has been filed, work with defense counsel and independent counsel to ensure that all evidence is preserved, and inform your defense counsel for any previous DataQs submitted on the crash, as well as any interest in challenging the crash if none have been submitted.



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