



# Federal Motor Carrier Safety Administration Crash Preventability Determination Program

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# Note....



- Crash preventability determination are made on the basis of information available to the Agency at the time of the determination
- It is not appropriate for use by private parties in civil litigation.
- This determination does not establish legal liability, fault, or negligence by any party and was made by persons with no personal knowledge of the crash.
- This crash preventability determination will not affect any motor carrier's safety rating or ability to operate.
- FMCSA will not issue penalties or sanctions on the basis of this determination.
- This crash preventability determination does not establish any obligations or impose any legal requirements on any motor carrier.

# Request and Review Process



U.S. Department of Transportation  
Federal Motor Carrier Safety Administration

## CRASH PREVENTABILITY DETERMINATION PROGRAM



# Eligibility Guidelines



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- The crash must meet at least one of the eligible crash types, occur on or after August 1, 2019, and be in FMCSA's system to be considered. Otherwise, the RDR will be closed by DataQs.
- If the crash is not eligible under one crash type, it may be eligible under another.
  - FMCSA will change it to a qualified type, if possible
- Resources regarding crash type eligibility can be found on FMCSA's website: <https://www.fmcsa.dot.gov/crash-preventability-determination-program>

# Eligible Crash Types



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The following crash types are eligible for submission to the program.

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

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

# Eligible Crash Types



**Parked or Legally Stopped** 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 while 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; or
- by a vehicle that failed to stop at a traffic control device.

# Eligible Crash Types



## **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, where the individual was charged or arrested, failed a field sobriety or other test, or refused to test; or
- 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, where the individual was charged or arrested, failed a field sobriety test or other tests, or refused to test.

# Eligible Crash Types



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

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

**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); or crash was a result of an infrastructure failure.



# Eligible Crash Types



**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 or Unusual** type of crash when the CMV:

- was involved in a crash type that seldom occurs and does not meet another eligible crash type (e.g., being struck by an airplane or skydiver or being struck by a deceased driver).

# Requesting a Data Review



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- 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

# Requests for Data Review (RDRs)



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To submit an RDR, log into DataQs at <https://dataqs.fmcsa.dot.gov>.

1. Click the “Add a Request” button, and submit your request under “Crash Could Not Be Prevented.”
2. Follow the prompts to search for an existing crash report.
3. Attach the police accident report (PAR) (required).
  - If you do not have the PAR, you will not be able to submit your request. You can save your request as a draft and upload the PAR at a later date, or follow the instructions to fax your PAR to FMCSA.
4. While not required, you may attach other documentation as evidence that the crash was not preventable.
  - Examples: Pictures, video, or court documents.
5. Once complete, review your RDR, and submit.

# RDR Best Practices



- Advise drivers involved in crashes to work with the officer on the scene to document the crash fully
  - Narrative
  - Diagram
  - Point of impact information
  - Citations to other drivers
- Make sure crash meets eligibility requirements of type
  - 25% not qualified
- Present compelling evidence of eligibility and preventability
  - Provide video if available
    - Particularly helpful in wrong direction
  - Provide pictures that show both vehicles in the crash
- Check SMS for post crash inspections
  - Post crash inspections with pre-crash out of service violations = Preventable
- Submit D&A test results for fatal crashes or explanation
  - Meet testing time frames:
    - 8 hours – alcohol
    - 32 hours – controlled substances
- You can open a new RDR with more information/documentation

# Review Process & Final Determinations



- 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.
  - Based on the volume received – taking 90 + days to complete review
- **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.
- **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.
- **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.

# Impact of Preventability Determinations (SMS)



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## Listing on the Safety Measurement System (SMS)

- FMCSA will continue to list all crashes on SMS
- Preventable and Undecided crashes reviewed under the program will include one of the following notations.

**Preventable**      “Reviewed – Preventable: FMCSA reviewed this crash and determined that it was preventable.”

**Undecided**      “Reviewed – Undecided: FMCSA reviewed this crash and could not make a preventability determination based on the evidence provided.”

## 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.

# SMS Display & Impact



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## BASIC: Crash Indicator

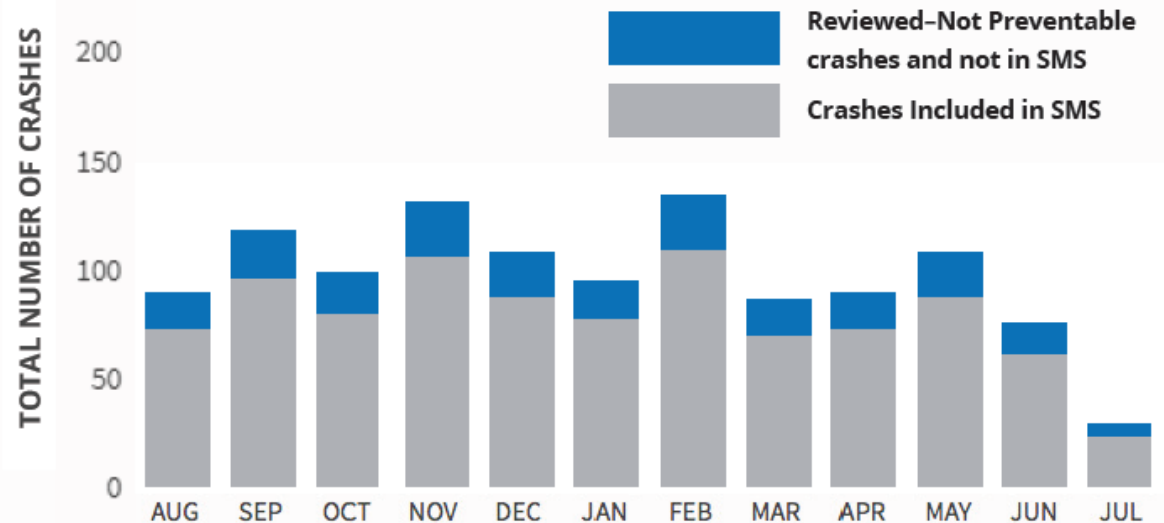
[More Info](#)



NOT PUBLIC

## ALL CRASHES

The graph below displays the number of crashes that the carrier has received for a selected period of time. [Expand](#) for more information.



A crash preventability determination does not assign fault or legal liability for the crash. These determinations are made on the basis of information available to FMCSA by persons with no personal knowledge of the crash and are not reliable evidence in a civil or criminal action. Under 49 U.S.C. § 504(f), these determinations are not admissible in a civil action for damages. The absence of a not preventable determination does not indicate that a crash was preventable.

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

Total Number of Crashes: 56

- CRASHES INCLUDED IN SMS (VEHICLES INVOLVED IN CRASHES)

Total Number of Crashes: 1,561

# SMS Display & Impact

## Not Preventable Crash List



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### - 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
7/21/2019	<a href="#">RI0000560539</a>	RI	2835234	IN	0	0	Yes	No
7/18/2019	<a href="#">TN0102451133</a>	TN	2700287	IN	0	0	Yes	No
7/15/2019	<a href="#">NYSP35359690</a>	NY	357406	IN	0	0	Yes	No
7/15/2019	<a href="#">AL0009684200</a>	AL	3CA124	OK	0	1	Yes	No
7/13/2019	<a href="#">WY0201908192</a>	WY	2696851	IN	0	0	Yes	No
7/12/2019	<a href="#">MS2504190333</a>	MS	2XY901	OK	0	1	Yes	No
7/12/2019	<a href="#">WI0000108822</a>	WI	2XB617	OK	0	1	Yes	No



# SMS Display & Impact

## Preventable & Undecided Crash List



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### - CRASHES INCLUDED IN SMS (VEHICLES INVOLVED IN CRASHES)

Total Number of Crashes: 1,561

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.

- ☒ All Crashes 1,561 (or)
 ☐ Fatal Crashes (39)
 ☐ Injury Crashes (512)
 ☐ Towaway Crashes (1,010)

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.

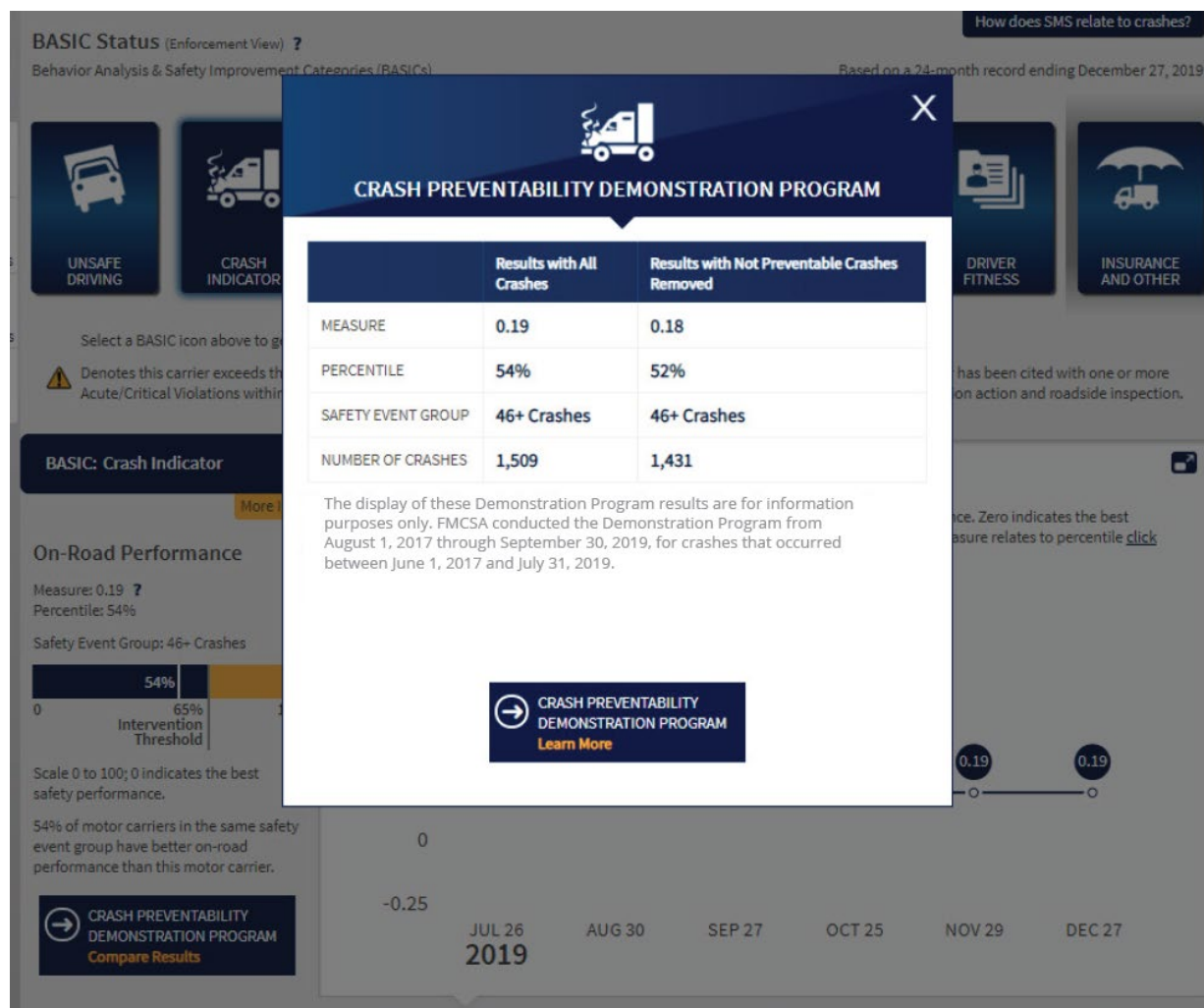
- ☒ All Crashes (or)
 ☐ Not Preventable-Demonstration Program
 ☐ Undecided
 ☐ Preventable

Report		Vehicle		Crash				Measure = $\frac{\text{Sum of the Total Weight (TotW)}}{\text{Avg. PU} \times \text{UF} = 17,314}$			
Date	Number	State	Plate Number	Plate State	Fatal	Inj.	Tow.	HM	Severity Weight (SW)	Time Weight (TiW)	Total Weight (TotW)
7/21/2019	<a href="#">RI0000560539</a>	RI	2835234	IN	0	0	Yes	No	1	3	3
7/18/2019	<a href="#">TN0102451133</a>	TN	2700287	IN	0	0	Yes	No	1	3	3
7/15/2019	<a href="#">NYSP35359690</a>	NY	357406	IN	0	0	Yes	No	1	3	3
7/15/2019	<a href="#">AL0009684200</a>	AL	3CA124	OK	0	1	Yes	No	2	3	6
7/13/2019	<a href="#">WY0201908192</a>	WY	2696851	IN	0	0	Yes	No	1	3	3
7/12/2019	<a href="#">MS2504190333</a>	MS	2XY901	OK	0	1	Yes	No	2	3	6
7/12/2019	<a href="#">WI0000108822</a>	WI	2XB617	OK	0	1	Yes	No	2	3	6
7/10/2019	<a href="#">NJ0019921755</a>	NJ	2723826L	IN	0	0	Yes	No	1	3	3
7/8/2019	<a href="#">IN0903405707</a>	IN	3BZ918	OK	0	1	Yes	No	2	3	6
7/4/2019	<a href="#">NV0190700288</a>	NV	2723319	IN	0	0	Yes	No	1	3	3
7/3/2019	<a href="#">MN0191840021</a>	MN	2695612	IN	0	0	Yes	No	1	3	3
7/3/2019	<a href="#">GA0007271029</a>	GA	2700124	IN	0	0	Yes	No	1	3	3
7/1/2019	<a href="#">CA8401903757</a>	CA	2698464	IN	0	0	Yes	No	1	3	3
6/30/2019	<a href="#">KY0072374638</a>	KY	2SQ187	OK	0	0	Yes	No	1	3	3
Not Preventable: FMCSA reviewed this crash and it determined that it was not preventable											

# SMS Demo Program Outcomes Still Available



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# Pre-Employment Screening Program (PSP)



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- FMCSA will note Not Preventable determinations in PSP.
- Not Preventable determinations will be posted within 60 days.
- Crashes will remain in PSP for 5 years from the date of the crash.

# Pre-Employment Screening Program (PSP)



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## PSP Detailed Report

Federal Motor Carrier Safety Administration

Driver Information															
Last Name		First Name		License #		State									
SMITH		JOHN		PA1234567		PA									
Crash Activity															
Crash Summary (Crashes listed represent a driver's involvement in FMCSA-reportable crashes, without any determination as to responsibility.)															
# of Crashes:		4		# of Crashes with Fatalities:		0		# of Crashes with Injuries:		2		# of Towaways:		2	
# Non-preventable:		1		# of Fatalities:		0		# of Injuries:		4		# of Hazmat Releases:		0	
Crash Details (Crashes listed represent a driver's involvement in FMCSA-reportable crashes, without any determination as to responsibility.)															
	Date	DOT #	Carrier Name	Driver Name	Driver Lic	State	Driver DOB	Rpt St	Report Number	Location	# Fatalities	# Injuries			
1	02/25/2018	227058	Legal Name 114032	SMITH, JOHN	PA1234567	PA	01/01/1960	PA	PA0000000	INTERSTAT E 0080 E	0	3			
2	04/11/2018	513264	Legal Name 174362	SMITH, JOHN	PA1234567	PA	01/01/1960	PA	PA0000000	ROUTE 0307	0	1			
2	04/11/2018	513264	Legal Name 174362	SMITH, JOHN	PA1234567	PA	01/01/1960	PA	PA0000000	ROUTE 0307 N	0	1			
<b>REVIEWED - NOT PREVENTABLE - FMCSA REVIEWED THIS CRASH AND DETERMINED THAT IT WAS NOT PREVENTABLE.</b>															
3	06/15/2018	513264	Legal Name 174362	SMITH, JOHN	PA1234567	PA	01/01/1960	PA	PA0000000	ROUTE 0051 N	0	0			
4	10/04/2018	227058	Legal Name 114032	SMITH, JOHN	PA1234567	PA	01/01/1960	PA	PA0000000	ROUTE 8033	0	0			
Driver Out-of-service Inspections:		0		Vehicle Out-of-service Inspections:		1		Hazmat Out-of-service Inspections:		0					
Driver Out-of-service Rate:		0%		Vehicle Out-of-service Rate:		33%		Hazmat Out-of-service Rate:		0%					

Report executed at: 12/6/19 11:41:44 AM  
MCMIS snapshot date: 05/16/2019

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- If the Determination Program receives an RDR on a crash that received a final preventability determination from a closed investigation, the Determination Program will adopt the investigation's determination.
  - The Determination Program will not review Preventable or Undecided crashes reviewed by an FMCSA safety investigator during an investigation – these requests will be immediately closed.
- If a motor carrier wants crashes reviewed for preventability after the investigation or audit is closed, for the purpose of changing a safety rating, the motor carrier will be required to pursue an administrative review as set forth in 49 CFR section 385.15.

# For More Information



U.S. Department of Transportation  
Federal Motor Carrier Safety Administration

- FMCSA Crash Preventability Determination Program Website  
<https://www.fmcsa.dot.gov/crash-preventability-determination-program>
- DataQs  
<https://dataqs.fmcsa.dot.gov>
- Questions?  
Email: [Crash.Preventability@dot.gov](mailto:Crash.Preventability@dot.gov)