

Understanding FMCSA's Crash Preventability Determination Program

Why this program matters and how it works

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Thank You for Joining Us!

- This webcast will cover ...
 - A regulatory overview
 - Best practices in compliance
 - A case study in implementation
 - Question & Answer session
- You will be muted during the event.
- Please use the Q&A feature to send in questions. We'll try to answer them during the Q&A period if they are not covered in the presentation.
- The slides and recording will be posted within 7 days at: www.jjkeller.com/nptcinfo

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Meet Your Speakers

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Crash Preventability Determination Program

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Crash Preventability Determination Program

- What is it?
 - Allows carriers to ask FMCSA for preventability determination
 - FMCSA determines if the crash was preventable or not preventable
 - If found not-preventable, crash is not scored in the Crash BASIC in CSA
 - Still DOT-recordable, so...
 - Remains in carrier's data, just not scored in CSA
 - Must be on carrier's accident register
 - Must ask for preventability determination during an audit
 - A preventability determination under CPDP does not automatically carry over to an audit

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CPDP Process

- Carrier gets police accident report and verifies information
- Carrier verifies accident is in its FMCSA SMS or Portal data
- Carrier verifies crash fits eligibility requirements
 - Full list of eligible crash types can be found at:
<https://www.fmcsa.dot.gov/sites/fmcsa.dot.gov/files/2021-09/CPDP%20Eligibility%20Guide.pdf>

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CPDP Process

- If crash is an eligible crash type, carrier can request review through Data Qs
 - Eligible types are based on crashes that can be easily determined
 - Structure stays away from "he said-she said" types of crashes
 - Example:
 - CMV struck in the rear (5:00 to 7:00 position) is an eligible type
 - CMV striking another vehicle in the rear is NOT an eligible type
 - Even if the other driver "cut off" the CMV

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CPDP Process

- Several types of crashes are only eligible if the PAR clearly shows the situation or provides required explanation
- Examples:
 - Other driver made an illegal U-turn or turn
 - Other driver failed to yield at a traffic control device
 - Other driver was under the influence, had a medical emergency, fell asleep, was distracted, or was attempting suicide

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CPDP Process

- Carrier files DataQs asking for preventability determination
- Carrier uploads supporting documents
 - Copy of the original police accident report is required
 - Any other documents or evidence supporting claim that crash was non-preventable
 - Dash camera footage supporting carrier's case!

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CPDP Process

- FMCSA's process once DataQs is filed
 - Initial/screening review
 - Verifies crash meets the eligibility criteria
 - All submitted and FMCSA data on crash collected and reviewed, including post-crash roadside inspection and drug test results
 - No drug test results following fatal crash, no determination
 - Any missing materials requested from the carrier
 - Initial recommendation made
 - Review completed by FMCSA investigator
 - Determination made
 - Be prepared to reply to any questions or request during review period

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CPDP Process

- KEY POINT
 - Preventability, as defined in the Appendix to Part 385:
 - *"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, the accident was preventable."*
 - In other words:
 - Driver not only didn't cause the crash, but also
 - Took reasonable steps to avoid involvement

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CPDP Process

- Classic examples of crashes that appear not-preventable, but end up being preventable
 - Animal strike happens (normally non-preventable)
 - Video shows driver texting and not reacting at all at time of animal strike
 - Preventable or non-preventable?
 - CMV struck in the rear by an out-of-control driver (normally non-preventable)
 - Driver or vehicle had an out-of-service violation at the time of the crash
 - Preventable or non-preventable?

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CPDP Process

- Possible determinations and outcome:
 - Not-preventable: Crash not scored in Crash BASIC
 - Preventable: Scored in Crash BASIC
 - Undecided: Scored in Crash BASIC

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Proposed Update

- Add new eligible crash types
 - Struck in the side by motorist going the same direction (side-swipe)
 - Struck by a vehicle entering from a private lot or driveway
 - Struck by another motorist that lost control
 - ANY crash where there is video footage showing the crash was not-preventable

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Video Footage

- Think about it...
 - Crash involved a left sideswipe and PAR does not state other driver left their lane
 - Your dash cam footage did not capture the crash, but...
 - You have video footage showing:
 - Your CMV was centered in its lane prior to and during the crash, and
 - Your driver pulled to the right and stopped immediately after impact
 - Crash involved your CMV striking the other party in the rear
 - Your dash cam footage clearly shows the other driver suddenly and unpredictably swerving into your lane and stopped abruptly

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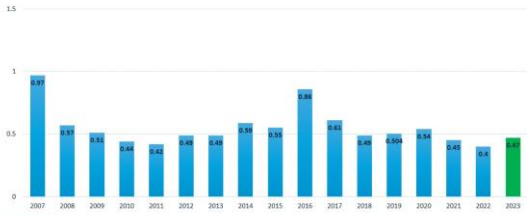
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Best Practices
in Fleet Compliance

Tom Moore, CTP
National Private Truck Council

DOT Recordable Accidents

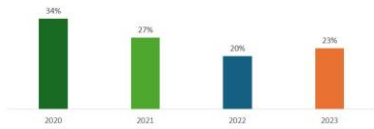


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Percent of the Accidents In Which the Fleet Was At Fault

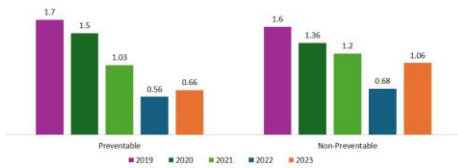


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Preventable and Non-Preventable Accidents

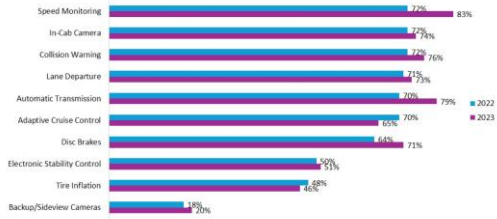


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Active Safety Technologies



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Why Fleets Opt Not to Use the Program

- Too complex
- Too time consuming
- Everyone they know that tried it has failed
- It will cause FMCSA and officers on the road to focus in on me in the future (it will put me on their radar)
- It will cause FMCSA to come and audit me

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DataQs Implementation

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Meijer Logistics LLC

- Private Fleet for the Meijer grocery store retailer located in the Midwest
 - 370 drivers
 - 250 Class 8 Tractors, 3,000 trailers (reefer and dry van)
 - Located in MI; deliver throughout MI and northern IN and northern OH

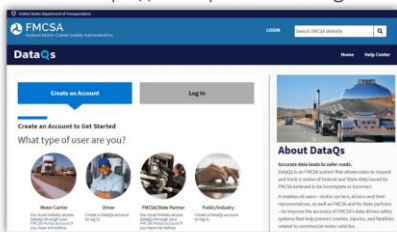


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DataQ's – <https://dataqs.fmcsa.dot.gov>



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DataQs Home page



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DataQs –
add a
request

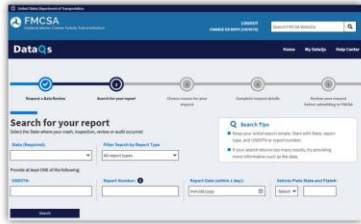


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DataQs –
Search for
your report

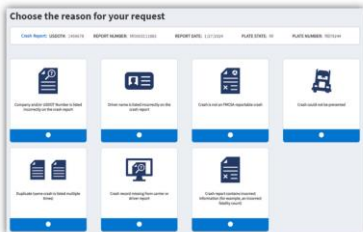


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DataQs – Choose the reason



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DataQs – Explanation and Supporting Docs!

Explanation of Request for Data Review

Explain the details of the crash

Attach Supporting Documents

1. Enter a brief title or select a suggested title from the dropdown menu below

2. Attach document below

3. Click the Add File button to add document to your request

File Title	File Name	Delete
No Document Attached		

Drag and Drop or Upload to Upload

- Accident Report (PAR)
- Accident Report (POL, CHC, FDR, TR, TRF, TRS, RLS, RSL, RNS, RPF)
- Accident Report (Witness Statement, WTS)
- Accident Other (Police, PPL, WPL, WPS, WPL, WPS)

Add File Cancel

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DataQs – Supporting Documents

- Examples:
 - Police Accident Reports (PAR)
 - dash cam video
 - damage photos
 - witness statements
 - insurance records

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DataQs – Supporting documentation FYI

<p>NOTES ON SUPPORTING DOCUMENTS</p> <p>In addition to the PAR, supporting documents may include, but are not limited to, videos, pictures, insurance documents, court documents, affidavits, eyewitnesses, etc. There is a 5MB file size limit. If your file is too big, you can email it to Crash.Preventability@dot.gov with your request ID.</p> <p>You have the option to enter a brief title or select a suggested one from the dropdown</p>	<p>DRUG AND ALCOHOL TESTS</p> <p>Drug and alcohol test results are required for fatal crashes, and must be uploaded or faxed with your RDR.</p> <p>If you are requesting review of a fatal crash and do not include a drug and alcohol test result or an explanation of why the test was not conducted, this may result in an Undecided or Preventable determination.</p>
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DataQs – FMCSA Reviews and Posts Determination

Your request will have one of the following statuses:

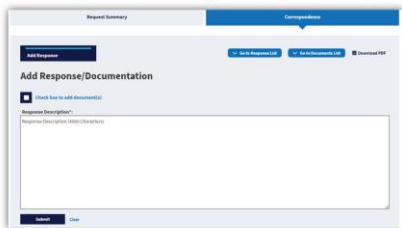
- **Submitted:** FMCSA has received the RDR in the system but has not yet begun review.
- **In Review:** The RDR is in the review process.
- **Pending Requestor Response:** FMCSA is waiting for the requestor to provide a document. Requestors must provide response within 14 days.
- **Closed - Not Eligible:** The crash did not meet the requirements of the CPDP.
- **Closed - No Requestor 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.

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DataQs – Appeals; adding additional info



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DataQs – why bother?

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).

PSP

On PSP, Not Preventable determinations are noted on the PSP Detailed Report.

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DataQs – Takeaways / Lessons Learned

- Do not rely on police reports alone
 - Other supporting documents (video, photos, etc.) are EXTREMELY helpful
- Take the time to write the crash details in a clear and coherent statement from the carrier's perspective
 - Police Reports can contain many pages with huge amounts of detail
 - Use your statement to guide the reviewer to the important pages/sections of the Police Report.
- Be patient! The final crash determination takes longer than other DataQ's challenges.
 - Avg time between inspection submission and final response = 17 days
 - Ave time between crash submission and final response = 83 days

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Questions and Answers

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More Questions?



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CSA: Where We Are Now and Where We Are Going

May 1st – 10:00am Central

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