

## Accident or Not? Navigating FMCSA's Crash Preventability Determination Program

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**Gary Petty**  
President & CEO  
National Private Truck Council

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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](http://www.jjkeller.com/nptcinfo)

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## Meet Your Speakers



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**Tim Adam, CTP**  
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## Audience Poll:

- Have you ever used the Crash Preventability Determination Program?
  - Yes
  - No, we don't have any crashes that qualify
  - No, we don't have the time or personnel to use it
  - No, we are not familiar with the 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/2024-12/CPDP%20Eligibility%20Guide\\_December%202024.pdf](https://www.fmcsa.dot.gov/sites/fmcsa.dot.gov/files/2024-12/CPDP%20Eligibility%20Guide_December%202024.pdf)

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## CPDP Process

- If crash is an eligible crash type, carrier can request review though DataQs
  - 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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## Recent Update

- 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
- Effective date December 1, 2024

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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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## Private Fleets and Crash Preventability

**Tom Moore, CTP**  
National Private Truck Council

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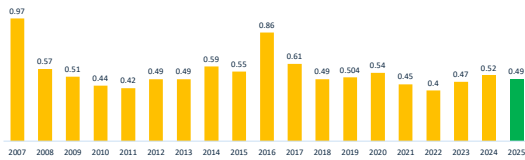
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## DOT Recordable Accidents



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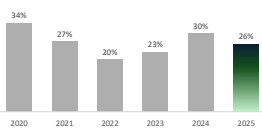
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## Percent of the Accidents In Which the Fleet Was At Fault



Percentage of those accidents challenged through DataQs = 25%

Success percentage = 42%

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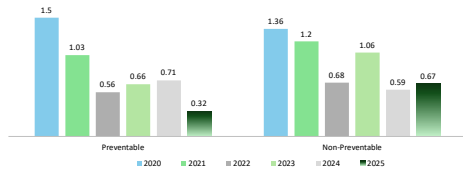
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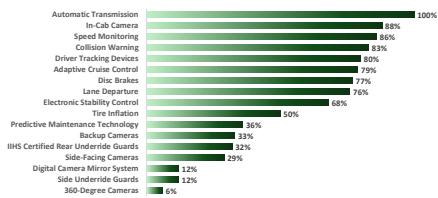
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## Preventable and Non-Preventable Accidents



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## Active Safety Technologies



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## Why Fleets Opt to Not 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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**Chris Kirby, CTP**  
Sr. Manager of Safety & Compliance



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## America's Service Line, LLC

- Private Fleet for American Foods Group (Beef)
  - 5th Largest Beef Packer in US – Largest Family-Owned Beef Packer in US
- Based in Green Bay, WI and Grand Island, NE
- 250 Tractors – Mostly OTR
- Operate East of Rockies
- 2024 Fleet Owner: Private Fleet of the Year
- 2025 Carriers Edge: Best Fleets to Drive For
- 2025 NPTC: 1st Place Fleet Safety Award (Regional)
- 10 CTPs on Staff currently



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## What's on Your Crash Indicator BASIC?

- Every DOT Reportable Crash your Fleet is involved in, **regardless of preventability or fault**
- DOT Reportable
  - Tow of any vehicle involved in the crash due to **disabling damage**
  - Medical treatment away from the scene of the crash
  - Fatality
- Your Crash Indicator BASIC is not public\* but is visible to enforcement

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## Crash Preventability Determination Program: What Is It?

- Allows carriers to challenge crashes that were non-preventable



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## Crash Preventability Determination Program: What Is It?

1. CMV was struck in the rear by a motorist.
2. CMV was struck on the side at the rear by a motorist.
3. CMV was struck on the side by a motorist operating in the same direction as CMV.
4. CMV was struck because another motorist was driving in the wrong direction.
5. CMV was struck because another motorist was making a U-turn or illegal turn.
6. CMV was struck while legally stopped at a traffic control device or parked, including while the vehicle was unattended.
7. CMV was struck because another motorist did not stop or slow in traffic.
8. CMV was struck because another motorist failed to stop at a traffic control device.
9. CMV was struck because another 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.
10. CMV was struck because another motorist experienced a medical issue which contributed to the crash.
11. CMV was struck because another motorist fell asleep.
12. CMV was struck because another motorist was distracted (e.g., cellphone, GPS, passengers, other).
13. CMV was struck by cargo or equipment from another vehicle, or debris (e.g., fallen rock, fallen trees, unidentifiable items in road).
14. CMV crash was result of an infrastructure failure.
15. CMV struck an animal.
16. CMV crash involving suicide death or suicide attempt.
17. CMV was struck because another motorist was entering the roadway from a private driveway or parking lot.
18. CMV was struck because another motorist lost control of the vehicle.
19. CMV was involved in a crash with a non-motorist.
20. 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 in another vehicle).
21. Any other crash involving a CMV where video demonstrates the sequence of events of the crash.

\*These 21 Crash Types went into effect on 12/1/2024 and apply to crashes that occur after that date only.

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## Crash Preventability Determination Program: What Is It?

- Have Patience in the Process

Due to a high volume of submissions to the Crash Preventability Determination Program, requests for data review (RDRs) are taking an average of 90 days to process.

- You must wait for the crash to appear on your Crash Indicator BASIC before you can challenge

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## Crash Preventability Determination Program: Why Does It Matter?

- Crash Indicator BASIC is not public\* but **IS discoverable during litigation**
- Speaks to the effectiveness of your safety program, culture, and corporate conscience
- Do you accept responsibility/liability for all the crashes on your Crash Indicator BASIC?

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## Crash Preventability Determination Program: Effective Use

- Initially challenged through Crash Type #3 – CMV was struck on the side by a motorist operating in the same direction as CMV.
- Lost the challenge due to the definition of “side”.
- Appealed and won through Crash Type #21 – Any other crash involving a CMV where a video demonstrates the sequence of events of the crash.

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## Crash Preventability Determination Program: Best Practices

- Defensive Driving Strategy to avoid any crashes
- If it happens, vigorously investigate and understand how it happened
  - Evidence: Photos from all angles, videos before/after crash, etc.
- Obtain copy of Police Report – Scrub for accuracy
- Watch for the crash to appear on your Crash Indicator BASIC
- There is no statute of limitations or expiration period on challenges
- **Start TODAY : Review your Crash Indicator BASIC : Act Now**

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## Questions and Answers



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## More Questions?



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Join us next time!

**Your Guide to DataQs:** Filing, Supporting, and Succeeding

October 29<sup>th</sup> – 10:00 AM Central

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