



National Transportation Consultants eNews / August, 2019

Crash Preventability Program Changes

FMCSA's Crash Preventability Program has been operating for two years. To date they have been asked to review over twelve thousand accidents submitted by 3,558 motor carriers. The highest number submitted by one carrier was 254 accidents. Of those accidents submitted, 56% were eligible for the program based on the accident type. After reviewing the eligible accidents, approximately 93% were found to have been non preventable.

For the majority of the accidents determined to be preventable, the driver was operating with an out of service condition including that the driver was not properly licensed on the day of the crash. Accidents in the final outcome category "undecided" were largely due to the submitter's failure to provide, after FMCSA's request, documentation confirming the validity of the driver's commercial driver's license (CDL) or medical certification on the date of the crash, or were found to be undecided because the documentation provided contained conflicting information about the submitter's actions in the crash.



FMCSA has used contract resources to complete two stages of review within the DataQs system. In *Stage 1*, the reviewer collects all documents related to the crash from the submitter and FMCSA systems including the Motor Carrier Management Information System (MCMIS) crash report, the Commercial Driver's License Information System (CDLIS) driver history record, any post crash inspection report, the Driver Information Resource, any recent enforcement information for the motor carrier, and any media reports about the crash. If the CDLIS record has been updated since the date of the crash, the reviewer requests documentation of the CDL or medical certificate on the date of the crash. In the cases of fatal crashes, the reviewer requests the CMV driver's post-crash drug and alcohol test results.

In *Stage 2*, an experienced crash report reviewer evaluates all of the documents

from the submitter and Stage 1. Based on the evidence reviewed, the Stage 2 reviewer makes a recommendation to FMCSA as to whether the submitter demonstrated, through compelling evidence, that the crash was not preventable.

An FMCSA employee reviews the evidence collected and considered by the Stage 2 reviewer and the recommendation and makes the determination. If FMCSA agrees with the recommendation of not preventable, the crash is posted for public input on the DataQs system for 30 days. Any new documents or data will be reviewed and considered before FMCSA makes a final determination. At this time, the DataQs public input functionality has been used only two times, to provide additional information from the submitter and to make a general comment about not preventable crashes that was not crash specific.

Final determinations (*i.e.*, not preventable, preventable, undecided) made through this demonstration program are noted on the Agency's public SMS website within 60 days. No crashes are removed from the SMS Crash Indicator BASIC. However, a logged-in motor carrier viewing its own data in SMS sees an alternative percentile and measure with the crashes with not preventable determinations removed. The Crash Indicator BASIC percentiles have never been publicly available and remain available only to motor carriers who log in to view their own data, as well as to FMCSA and law enforcement users.

FMCSA proposes two changes to the original eight crash types. First, FMCSA would combine the crash type involving infrastructure failures and debris with the crash type for CMVs struck by cargo and equipment. The distinction between these two crash types did not result in different determinations and, in some cases, required submitters to resubmit their RDRs under the other crash type. In addition, FMCSA is changing the "Motorist Under the Influence" crash type to "Individual Under the Influence" to include pedestrians and bicyclists.

In addition, FMCSA proposes to add the following additional crash types. These crashes were frequently submitted during the demonstration program, but did not qualify for one of the original crash types. However, the police accident reports provided sufficient information to reach a preventability determination.

8. When the CMV is struck on the side in the rear. These crashes would include when the other driver was in another lane before the crash and strikes the CMV at the side. For example, this would include when the police accident report indicates that the CMV was struck at the 5:00 or 7:00 point of impact.

9. When the CMV is stopped in a traffic lane due to traffic and is struck by a vehicle that did not stop or slow in traffic. This would include when the CMV is struck on the side.

10. When the CMV is struck by a vehicle that failed to stop at a traffic control device (*e.g.*, stop sign, red light or yield).

11. When the CMV is struck by a vehicle that was making a U-turn or illegal turn.

12. When the CMV is struck by a driver who experiences a medical issue which causes the crash.

13. When the CMV is struck by a driver who admits falling asleep or admits

distracted driving (*e.g.*, cellphone, GPS, passengers, other).

14. When the crash involved an individual “under the influence” (or related violation such as operating while intoxicated), according to the legal standard of the jurisdiction in which the crash occurred, even if the CMV was struck by another vehicle involved in the crash and not by the individual under the influence. The standards for test results, arrest or a citation would continue to apply.

15. When the crash involved a driver operating in the wrong direction, even if the CMV was struck by another vehicle involved in the crash and not by the driver operating in the wrong direction. The standard for the other wrong direction vehicle to be completely operating in the wrong lane (*e.g.*, completely across the center line or over a median) or the other driver was driving in the wrong direction (*e.g.*, driving southbound in the northbound lanes of an interstate or opposite on a one-way road.) to qualify for this crash type.

[Click here for more program details.](#)

Driver Medication Form

FMCSA (Federal Motor Carrier Safety Administration) is asking for comments on a proposed Commercial Motor Vehicle Driver Medication Form. This questionnaire would be used to collect information that will help the Medical Examiner determine if the driver is medically qualified. The information collected would be provided by the driver’s prescribing physician and includes:

- List of all medications and dosages prescribed to the driver.
- List any other medications and dosages you are aware that have been prescribed by another physician.
- What medical conditions are being treated with these medications?

The prescribing physician would then sign the following statement:

It is my medical opinion that, considering the mental and physical requirements of operating a CMV and with awareness of a CMV driver’s role, I believe my patient:

- (1) Has no medication side effects from medication(s) that I prescribe that would adversely affect the ability to operate a CMV safely; and*
- (2) has no medical condition(s) that I am treating with the above medication(s) that would adversely affect the ability to operate a CMV safely.*

The purpose of this form is to provide the Medical Examiner with information that could be critical to determining whether the underlying medical condition and the prescribed medication will impact the driver’s safe operation of a CMV. Therefore, there is no required collection frequency and use of this form is optional.

[Click to access a copy of the Driver Medication Form](#)

Reasonable Suspicion Testing

Currently 49 CFR 382.601 requires that all persons designated to supervise drivers receive at least 60 minutes of training on alcohol abuse, and 60 minutes

of training on controlled substance abuse. Only those persons who have been trained can determine whether reasonable suspicion exists to require a driver to undergo testing. Under the regulations recurrent training is not required.

CVSA (Commercial Vehicle Safety Alliance) has filed a petition with FMCSA requesting that the regulation be revised to require recurrent training every three years. Their feeling is that the added frequency of training will ensure that supervisors have up-to-date training on recognizing controlled substance or alcohol abuse.

[VISIT OUR WEBSITE](#)