**Federal Register Title and Cite**

FMCSA Policy on Considering the Preventability of Crashes in Administrative Review Requests of Hazardous Materials Safety Permit Denials Based Upon Crash Rates in the Top 30 Percent of the National Average Under 49 CFR 385.407; Notice of Enforcement Policy, 73 Fed. Reg. 53383 (Sept. 16, 2008)

The Federal Register text can be found on the Federal Register website. To view the Federal Register text, use the link below.

<https://www.federalregister.gov/documents/2008/09/16/E8-21563/fmcsa-policy-on-considering-the-preventability-of-crashes-in-administrative-review-requests-of>

## Federal Register Description/Summary

FMCSA may not issue a hazardous materials safety permit (safety permit) to a motor carrier that has a crash rate, driver, vehicle or hazardous material out-of-service rate in the top 30 percent of the national average pursuant to 49 CFR 385.407. This document provides notice of FMCSA policy that it will consider preventability when a motor carrier contests the denial of a safety permit based upon a crash rate in the top thirty percent of the national average and presents compelling evidence that one or more of the crashes listed in the Motor Carrier Management Information System (MCMIS) was not preventable and thus not reflective of the motor carrier’s suitability to transport the type and quantity of hazardous materials that require a safety permit. Preventability is determined by the following standard: 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. FMCSA currently uses this standard in evaluating accident factors under its safety rating process.