***Question 30:*** Does an explosion or fire in a commercial motor vehicle (CMV) that has not collided with other vehicles or stationary objects meet the definition of an “accident” under §390.5T?

*Guidance:* Fires have been included in the definition of “accidents” since 1962. However, in an effort to simplify the regulatory text, the agency removed the specific references to fires, rollovers, and other noncollision accidents in 1972. As the agency indicated, however, its intent was to include all of these items as accidents (37 FR 18079, September 7, 1972).

A fire or explosion in a CMV operating on a highway in interstate or intrastate commerce would be considered an “accident” if it resulted in a fatality; bodily injuries requiring the victim to be transported immediately to a medical facility away from the scene; or disabling damage requiring the CMV to be towed. A collision is not a pre-requisite to an “accident” under §390.5T.

Any CMV fires that meet the accident criteria in 49 CFR 390.5T — that is, fires that occur in a commercial motor vehicle in transport on a roadway customarily open to the public which result in a fatality, bodily injury requiring immediate medical attention away from the scene of the accident, or disabling damage requiring a vehicle to be towed — will be considered in the safety fitness determination. As indicated in Appendix B to 49 CFR Part 385, FMCSA will continue to consider preventability when a motor carrier contests a safety rating by presenting compelling evidence that the recordable rate is not a fair means of evaluating its accident factor.

With regard to fires, preventability will be determined according to the following: If a motor carrier, that exercises normal judgment and foresight could have anticipated the possibility of the fire that in fact occurred, and avoided it by taking steps within its control — short of suspending operations — which would not have risked causing another kind of mishap, the fire was preventable.