

FREQUENTLY ASKED QUESTIONS



These FAQs are intended to provide information that FMCSA published in the Federal Register in a user-friendly format. The link to the Federal Register Notice is available on the program website at: www.FMCSA.dot.gov/crash-preventability-determination-program. The guidance contained herein lacks the force and effect of law, except as authorized by law or as incorporated into a contract, and is not meant to bind the public in any way. This guidance is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.

1 What is FMCSA's Crash Preventability Determination Program?

The Crash Preventability Determination Program allows motor carriers or drivers involved in specific crash types to submit Requests for Data Review (RDR) through FMCSA's DataQs system. Crashes must have occurred on or after August 1, 2019 and the RDR must include the police accident report.

The results of the preventability reviews are posted on FMCSA's Safety Measurement System (SMS) website. Crashes found to be Not Preventable **are not included** in the Crash Indicator Behavior Analysis and Safety Improvement Category (BASIC) that FMCSA uses, with other data, to prioritize motor carriers for safety interventions. In addition, Not Preventable crashes are noted in the Agency's Pre-Employment Screening Program (PSP).

2 Where can I get more information about the Crash Preventability Determination Program?

Information on the program is available at:
www.fmcsa.dot.gov/crash-preventability-determination-program.

Motor carriers and drivers can submit crash preventability RDRs through DataQs at: <https://dataqs.fmcsa.dot.gov>.

3 What types of crashes are eligible for review in the Crash Preventability Determination Program?

Crashes must have occurred on or after August 1, 2019, and must meet one of the crash types described below. To submit a crash for consideration, a carrier should submit a Request for Data Review on FMCSA's [DataQs website and upload the police accident report](#).

If the crash is not eligible under the crash type it was submitted, FMCSA will move the crash to an eligible crash type, if one exists. However, if the crash does not meet one of the eligible crash types, it will be closed.

The following crashes are eligible for review under the program.

Struck in the Rear type of crash when the CMV was struck:

- in the rear; or
- on the side at the rear.

Wrong Direction or Illegal Turns type of crash when the CMV was struck:

- by a motorist driving in the wrong direction; or
- by another motorist in a crash when a driver was operating in the wrong direction; or
- by a vehicle that was making a U-turn or illegal turn.

Parked or Legally Stopped type of crash when the CMV was struck:

- while legally stopped at a traffic control device (e.g., stop sign, red light, or yield); or while parked, including while the vehicle was unattended.

Failure of the Other Vehicle to Stop type of crash when the CMV was struck:

- by a vehicle that did not stop or slow in traffic; or
- by a vehicle that failed to stop at a traffic control device.

Under the Influence type of crash when the CMV was struck:

- by an individual under the influence (or related violation, such as operating while intoxicated), according to the legal standard of the jurisdiction where the crash occurred, where the individual was charged or arrested, failed a field sobriety or other test, or refused to test; or
- by another motorist in a crash where an 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, where the individual was charged or arrested, failed a field sobriety test or other tests, or refused to test.

Medical Issues, Falling Asleep, or Distracted Driving type of crash when the CMV was struck:

- by a driver who experienced a medical issue which contributed to the crash; or
- by a driver who admitted to falling asleep or admitted to distracted driving (e.g., cellphone, GPS, passengers, other).

Cargo/Equipment/Debris or Infrastructure Failure type of crash when the CMV:

- was struck by cargo, equipment, or debris (e.g., fallen rock, fallen trees, unidentifiable items in the road); or crash was a result of an infrastructure failure.

3 What types of crashes are eligible for review in the Crash Preventability Determination Program? (Continued)

Animal Strike type of crash when the CMV:

- struck an animal.

Suicide type of crash when the CMV:

- struck an individual committing or attempting to commit suicide.

Rare or Unusual type of crash when the 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).

4 Why aren't all crashes eligible for the Crash Preventability Determination Program?

The eligible crashes are less complex crash events that do not require extensive expertise to review. Based on the Agency's experience in reviewing crashes during the demonstration program, FMCSA added new eligible crash types to the Crash Preventability Determination Program. If the new crash types are able to be reviewed consistently, the Agency may consider expanding the program to include additional crash types in the future.

5 Why won't FMCSA accept crashes from before August 1, 2019 in the Crash Preventability Determination Program?

FMCSA conducted a demonstration program from August 1, 2017 through September 30, 2019, on crashes that occurred June 1, 2017 through July 31, 2019. Based on experiences with the demonstration program, FMCSA proposed the new Crash Preventability Determination Program and sought public input in a Federal Register notice on August 5, 2019. FMCSA systems had to be updated to accommodate the new program, especially DataQs. As a result, a new start date for the new program was established.

6 How do I submit a crash for review in the Crash Preventability Determination Program?

Motor carriers and drivers can submit crash preventability Requests for Data Review (RDRs) through DataQs at: <https://dataqs.fmcsa.dot.gov>.

If the crash is not eligible under the crash type it was submitted, FMCSA will move the crash to an eligible crash type, if one exists. However, if the crash does not meet one of the eligible crash types, it will be closed.

Resources regarding crash type eligibility and how to submit a crash preventability RDR can be found on FMCSA's website: www.fmcsa.dot.gov/crash-preventability-determination-program.

7 What information do I need to submit for participation in the Crash Preventability Determination Program?

Motor carriers or drivers **must submit a police accident report.** Requests for Data Review (RDRs) with no police accident report will be immediately closed as not eligible.

Additionally, drug and alcohol test results (or the required documentation of why the testing did not occur in the required timeframes) must be provided for fatal crashes.

The burden is on the submitter to provide compelling evidence the crash is eligible and not preventable. As a result, submitters are encouraged to submit other documents to support their request including:

1. **Videos;**
2. **Pictures; and**
3. **Court documents.**

Please note: maximum file size for files uploaded on DataQs is 5MB.

Submitted documentation should contain appropriate content (e.g., no unnecessarily graphic photos) and support the RDR.

8 Will FMCSA ask for any specific documents?

FMCSA requires submitters to submit a police accident report with their request. FMCSA reserves the right to request additional information on the crash, which may include any documentation the carrier is required to maintain under the Agency's regulations.

9 Will FMCSA still process Requests for Data Review (RDRs) as part of the Crash Preventability Determination Program if the State has not yet submitted the crash report to FMCSA?

No, in order to submit an RDR, a user must select a crash record from a list of crashes in the Agency's Motor Carrier Management Information System (MCMIS). If the MCMIS crash report has not yet been submitted by the State, the submitter may save the RDR and complete the submission once the MCMIS crash record exists.

10 How do I find out the status of my Request for Data Review (RDR) in the Crash Preventability Determination Program?

FMCSA's DataQs system provides status information about all RDRs and is updated immediately when a crash preventability RDR moves from one stage of review to the next. For the Crash Preventability Determination Program, the statuses are as follows:

- **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.
- **Closed: Not Eligible**
The crash was not one of the eligible crash types.
- **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.

11 Why was my request automatically closed out by the DataQs system?

There are three reasons requests are automatically closed. First, the crash occurred before **August 1, 2019**. Second, the crash was not one of the eligible crash types. Third, the wrong crash report number was used.

12 How long will it take for FMCSA to post Crash Preventability Determination Program results to the Safety Measurement System (SMS) and the Pre-Employment Screening Program (PSP)?

Once FMCSA makes a determination on the crash, the Agency will post results to the SMS and PSP within 60 days.

13 What happens if FMCSA decides my crash was Not Preventable?

During the Crash Preventability Determination Program, FMCSA will continue to list Not Preventable crashes on the public Safety Measurement System (SMS) website. However, the crash will appear in a separate table from all other crashes titled “Reviewed – Not Preventable Crashes.”

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).

The Not Preventable determinations will be noted on the driver’s Pre-Employment Screening Program (PSP) record.

14 What happens if FMCSA decides my crash was Preventable?

The public display of the Safety Measurement System (SMS) will include a notation that reads, “Reviewed – Preventable: FMCSA reviewed this crash and determined that it was Preventable.” These crashes will be included in the Crash Indicator BASIC.

Preventable crashes include those with evidence that the driver and/or carrier was legally prohibited from operating the vehicle at the time of the crash.

15 What happens if FMCSA cannot determine if my crash was Not Preventable, based on the evidence submitted?

In these cases, the documentation submitted did not allow for a conclusive decision by FMCSA. When crash reviews are Undecided, the public display of the Safety Measurement System (SMS) will include a notation that reads, “Reviewed – Undecided: FMCSA reviewed this crash and could not make a preventability determination based on the evidence provided.” These crashes will be included in the Crash Indicator BASIC.

16 Will FMCSA consider input from others in making a determination about a crash?

Yes, anyone with documentation or data to refute a determination may submit the documentation to FMCSA by email to Crash.Preventability@dot.gov. This information will be reviewed, and determinations may be changed as a result of this additional information.

However, preliminary Not Preventable determinations will no longer be posted for public input for 30 days.

17 Can I submit additional information if FMCSA determines my crash was Preventable or Undecided?

Carriers may ask that FMCSA reconsider a request by reopening the Request for Data Review in DataQs and submitting additional documentation. RDRs that are re-opened without additional information will be re-closed without a change.

18 **What will FMCSA do with the information collected during the Crash Preventability Determination Program?**

Throughout the Crash Preventability Determination Program, FMCSA will maintain data so the Agency can conduct analyses on the program.

19 **How does this Determination Program impact crashes reviewed for preventability during investigations?**

The Crash Preventability Determination Program does not impact preventability determinations made through FMCSA safety investigations conducted under 49 CFR part 385. Crash preventability determinations made during this Determination Program will not affect any carrier's safety rating or ability to operate. FMCSA will not issue penalties or sanctions on the basis of the Determination Program determinations, and the determinations do not establish any obligations or impose legal requirements on any carrier. These Determination Program determinations will not change how the Agency will make enforcement decisions