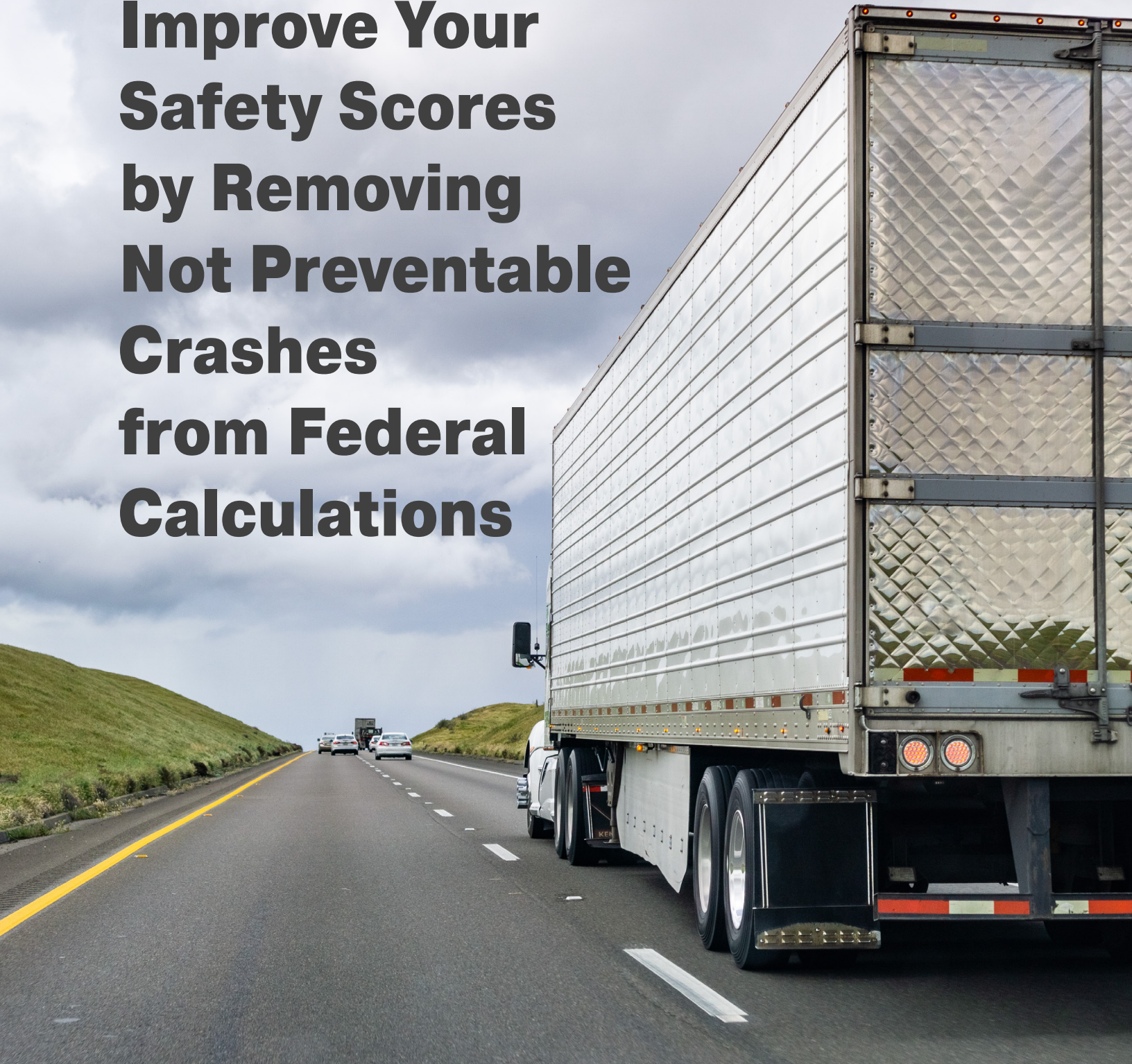


# **Improve Your Safety Scores by Removing Not Preventable Crashes from Federal Calculations**







**While a CPDP determination of not preventable does not remove the crash from the SMS website and is not admissible as to legal liability, there are benefits for motor carriers and drivers.**

Prior to May 2020, Federal Motor Carrier Safety Administration (FMCSA) used all crashes regardless of preventability in calculating a motor carrier's Crash Indicator Behavior Analysis and Safety Improvement Categories (BASIC). A poor score in this BASIC could lead FMCSA to target the motor carrier as high risk for investigation and enforcement purposes and could impact the carriers' ability to participate in bypass programs.

Following industry and law enforcement concerns, the FMCSA began a demonstration project in July of 2017. The goal was to identify whether certain commercial motor vehicle-involved crashes could be determined as not preventable by the motor carrier or the commercial motor vehicle (CMV) driver.

In May 2020, FMCSA announced the completion of the Crash Preventability Demonstration Project and the [beginning of the Crash Preventability Determination Program \(CPDP\)](#). Under the CPDP, FMCSA will exclude from the Crash Indicator BASIC calculation any crashes with "not preventable" determinations. Crashes, on the other hand, which receive a CPDP determination of "preventable" or "undecided" will still be included in the Crash Indicator BASIC calculation. FMCSA will continue to list all crashes on SMS, but not preventable crashes will be listed separately.

The CPDP determination relates to the "preventability" of a crash. Preventability is a higher standard than fault. Under 49 U.S.C. (United States Code) section 504(f), the CPDP determinations are not admissible in a civil action for damages.

## How CPDP Helps Motor Carriers

While a CPDP determination of not preventable does not remove the crash from the SMS website and is not admissible as to legal liability, there are benefits for motor carriers and drivers:

- For motor carriers, removal of not preventable crashes from the Crash Indicator calculation may improve that fleet's Crash Indicator BASIC score. This potentially affects its overall SMS status and FMCSA prioritization of that motor carrier for further monitoring. It is especially helpful to smaller motor carriers with fewer vehicles and less mileage exposure, where small changes in numbers can have big implications.
- An improvement in overall SMS status can impact a fleet's ability to qualify for electronic weigh station bypass services, like PrePass.

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- Motor carriers may find that the SMS website notations of not preventable crashes provide talking points with customers, insurers, and current and potential employees. \*
- For drivers, the not preventable entry on his or her PSP record can affect their ability to obtain or retain employment or avoid disciplinary action. \*

*\*FMCSA does not play any role in these discussions or decisions.*



## How to Initiate a CPDP Review

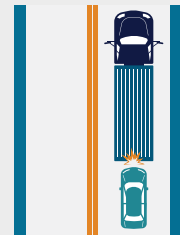
Motor carriers and drivers may now submit crashes that occurred on or after August 1, 2019, for review under the CPDP. Carriers must send a Request for Data Review (RDR) to the national data correction system, better known as [DataQs](#). Under the finalized program, all RDRs must be accompanied by the police accident report for that crash. Fleets and drivers are encouraged to also submit documents, photos and videos (5 MB maximum size) that demonstrate that the crash fits one of the categories eligible for review and that the crash was not preventable. The burden of proof is on the submitter, both as to crash eligibility and to the crash being not preventable.

## Crashes Eligible for CPDP Review

Under the finalized program, the following categories of crashes are eligible for CPDP review:

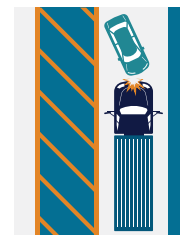
### **Struck in the rear type of crash when the CMV was struck:**

- 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.



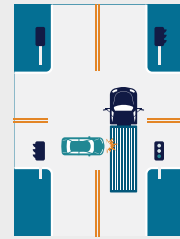
### **Parked or legally stopped type of crash when the CMV was struck:**

- while legally stopped at a traffic control device (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.



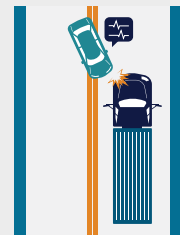
**Under the influence type of crash when the CMV was struck:**

- 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; 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.



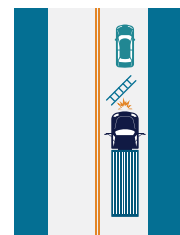
**Medical issues, falling asleep or distracted driving type of crash when the CMV was struck:**

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



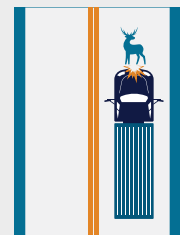
**Cargo, equipment, debris or infrastructure failure type of crash when the CMV:**

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



**Animal strike type of crash when the CMV:**

- struck an animal



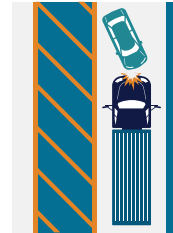
### **Suicide type of crash when the CMV:**

- 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 (being struck by an airplane, skydiver or being struck by a deceased driver).



FMCSA provides [detailed guidance on the CPDP](#), as well as [graphics depicting crashes that are, and that are not, eligible for review](#).

## **How FMCSA Conducts a CPDP Review**

FMCSA thoroughly reviews the documentation submitted by the motor carrier or the driver. FMCSA may request further documentation. Failure of the motor carrier or driver to respond to the request for additional documentation may result in an FMCSA determination that the crash was preventable or that FMCSA was undecided as to its preventability.

FMCSA expects each CPDP review to take two to three months. Following a CPDP determination, FMCSA will allow a motor carrier or driver a one-time opportunity to submit additional documentation.

To determine preventability, FMCSA utilizes the standard set at 49 CFR (Code of Federal Regulations) part 385, Appendix B, section II.B(e):

“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 relies on information in the Motor Carrier Management Information System (MCMIS) crash report to confirm the driver’s license and medical certification status at the time of the crash.

FMCSA will not proceed with the CPDP review until the state where the crash occurred has filed its MCMIS crash report. However, a motor carrier or driver can enter the required information and save the RDR in DataQs and then submit it once the crash is in MCMIS.

Under the finalized program, FMCSA will no longer publish preliminary not preventable determinations on its website nor allow public input for a 30-day period before finalizing its determination. However, information about any crash will continue to be accepted by email to [crash.preventability@dot.gov](mailto:crash.preventability@dot.gov) and will be fully considered.

FMCSA will post final determinations to SMS within 60 days of the determination and will post not preventable determinations to PSP within 60 days of the determination. Crashes will remain in PSP for 5 years from the date of the crash.

## **When NOT to Initiate a CPDP Review.**

A CPDP review will not be conducted on a crash which does not fit one of the eligible categories. For ineligible crashes, there will not be a preventability determination at all. According to FMCSA, the eligible crashes are not complex fact situations and are amenable to review. Complex crashes are beyond the scope of CPDP.

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A CPDP review will not be conducted on a crash that received a final preventability determination from a closed investigation; the CPDP will adopt the investigation's determination.

The CPDP will not review Preventable or Undecided crashes reviewed by an FMCSA safety investigator during an investigation. These requests will be immediately closed. If a motor carrier would like a crash reviewed for preventability after the investigation or audit is closed, for the purpose of changing a safety rating, the motor carrier will be required to pursue an administrative review as set forth in 49 CFR section 385.15.

If the driver, motor carrier or CMV was not legally on the road at the time of the crash, the crash will not be eligible for a not preventable determination. If documentation shows that the driver was not qualified to operate the CMV, the crash will be deemed preventable.

Finally, for crashes which involve a fatality, FMCSA will seek post-crash drug and alcohol test results. Failure to submit those test results or an explanation of why they were not conducted will result in a CPDP undecided determination. If the post-crash test results are positive for drugs or alcohol in the CMV driver, the crash will be determined as preventable.

**For more information on the Crash Preventability Determination Program, please visit:**

- [Crash Preventability Determination Program: Eligibility Guide](#)
- [Crash Preventability Determination Program: Submitter Guide](#)
- [Crash Preventability Determination Program: Frequently Asked Questions](#)
- [Crash Preventability Determination Program: Federal Register Notices](#)
- [Crash Preventability Determination Program: Presentation](#)
- [Crash Preventability Determination Program: Fact Sheet](#)

For information on the previous Demonstration Program, please visit:

[Crash Preventability Demonstration Program](#)





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