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FMCSA Launches Crash Preventability Determination Program

On May 1, 2020, the Federal Motor Carrier Safety Administration ("FMCSA") announced that, pursuant to its newly adopted Crash Preventability Determination Program ("CPDP"), it will not count a crash in calculating the carrier's safety record when a motor carrier is not at fault, effective immediately. This development follows a decade-long trucking industry controversy where trucking companies complained that the government unfairly calculated their safety record using crashes that were neither their fault nor preventable.

The CPDP expands upon and makes permanent a 2017 FMCSA pilot program that evaluated the effects of excluding a crash from a carrier's safety report when the carrier was not at fault. Under the pilot program, the FMCSA reviewed over 5,600 crashes submitted by truck and bus companies to determine if the crash was preventable. The results indicated that, in 94% of cases, the carrier could not have prevented the accident.

Under the CPDP, carriers that have an eligible crash, which occurred on or after August 1, 2019, may submit a Request for Data Review along with the required police accident report and other supporting documents through the FMCSA's DataQs website. If the FMCSA determines a crash was not preventable, it will be listed on the Safety Measurement System but not included in the calculation of a carrier's Crash Indicator Behavior Analysis and Safety Improvement Category measure. Additionally, the no-fault determinations will be noted on a carrier's Pre-Employment Screening Program report.

The FMCSA identified 10 types of eligible crashes under the CPDP:

1. Struck in the Rear type of crash
2. Wrong Direction or Illegal Turns type of crash
3. Parked or Legally Stopped type of crash
4. Failure of the Other Vehicle to Stop type of crash
5. Under the Influence type of crash
6. Medical Issues, Falling Asleep or Distracted Driving type of crash
7. Cargo/Equipment/Debris or Infrastructure Failure type of crash
8. Animal Strike type of crash
9. Suicide type of crash
10. Rare or Unusual type of crash

Regarding the implementation of the CPDP, Jessica A. Reese of Dickie, McCamey & Chilcote remarked: "The FMCSA recognized the inherent unfairness in penalizing motor carriers, through their safety ratings, for accidents which were out of their control. This new system provides a method by which a motor carrier can easily establish, by accident type, that their driver did nothing wrong. This is certainly a step in the right direction."

To view the FMCSA's latest Federal Register Notice, [click here](#).



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