

Federal programs and activities apply to this program.)

*Authority:* 23 U.S.C. 139(l)(1).

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2022–0233]

#### Crash Preventability Determination Program

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), U.S. Department of Transportation (DOT).

**ACTION:** Notice; response to public comments.

**SUMMARY:** FMCSA announces changes to its Crash Preventability Determination Program (CPDP). Under the CPDP carriers and drivers may submit requests for data review (RDR) to FMCSA to determine the preventability of commercial motor vehicle (CMV) crashes. FMCSA proposed these changes in its **Federal Register** notice, “Crash Preventability Determination Program,” published at <https://www.regulations.gov/docket/FMCSA-2022-0233> on April 13, 2023. This notice finalizes the proposed changes, responds to comments received, and outlines next steps for implementation.

**FOR FURTHER INFORMATION CONTACT:** Mr. Catterson Oh, Compliance Division, Office of Enforcement and Compliance, FMCSA, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, (202) 366–6160, [Catterson.Oh@dot.gov](mailto:Catterson.Oh@dot.gov).

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**SUPPLEMENTARY INFORMATION:** FMCSA organizes this notice as follows:

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- II. Summary of Public Comments and Response
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#### I. Background

FMCSA currently accepts RDRs in its DataQs system to evaluate the preventability of 16 specific crash types as set forth in a notice published in the **Federal Register** on May 6, 2020 (85 FR 27017). On April 13, 2023, FMCSA proposed changes to existing and new crash types in CPDP and announced a 60-day preview and comment period for stakeholders (88 FR 22518). The comment period ended on June 12, 2023.

#### II. Summary of Public Comments and Response

FMCSA received 60 unique comments in response to the April 2023, notice; one comment was received outside the notice comment period. Of these, 53 submissions contained comments specifically on the changes proposed in that notice. The commenters included motor carriers, drivers/owner-operators, industry associations, and safety consultants. The following entities submitted relevant comments: AIST Safety Consultants, American Trucking Associations (ATA), Big M, Cessna Transport, David W. Blankenship LLC, Fuel Delivery Services Inc., Heyl Truck Lines, Independent Carrier Safety Association, J.B. Hunt Transport, Inc., Knight-Swift Transportation, Lytx, National Motor Freight Traffic Association, Inc. (NFMFTA), National Tank Truck Carriers (NTTC), National Waste and Recycling Association, Owner-Operator Independent Drivers Association (OOIDA), Ray Walker Trucking, Sanborn, Brandon, Duvall & Bobbitt Cp., L.P.A., Siskiyou Transportation, Inc., The Forward Group, Inc., TMC Transportation, Trailiner Corp, Veolia North America, Werner Enterprises, Inc., a consortium of associations Air & Expedited Motor Carriers Association, Airforwarders Association, Alliance for Safe, Efficient and Competitive Truck Transportation, Auto Haulers Association of America, American Home Furnishings Alliance, Apex Capital Corp, National Association of Small Trucking Companies, Sompo International, Specialized Furniture Carriers, The Expedite Association of North American, Transportation & Logistics Council, Transportation Loss Prevention and Security Association, and individuals who did not identify their organizations. Many stakeholders provided comments on multiple proposed changes and topics. Comments outside the scope of the

April 2023 notice are not discussed in this notice.

Comments in response to the April 2023, notice largely supported the proposed changes. The relevant topics generating the most responses were: (1) proposal for new crash types, particularly the inclusion of requests that have video evidence of the crash; (2) changing the eligibility standard for wrong direction crashes; and (3) the turnaround time for a preventability determination on an eligible crash. In addition, many commenters suggested additional crash types to include as eligible for the program. Two commenters (Josh Curry and Charles E. Guitard) stated their opposition to expanding the program. Josh Curry noted that the “cost to benefits ratio can’t justify it,” and Charles E. Guitard would like the Agency to address existing issues, such as the lack of truck parking. The following sections provide a summary of the comments received and the Agency’s responses.

#### III. List of Eligible Crash Types

##### A. Changes to Existing Crash Types

While many commenters favored expanding the eligibility of the program, few specifically addressed the changes to existing crash types that would allow more crashes to be eligible. Five commenters (Werner, NFMFTA, NTTC, Steve Davis, Siskiyou Transportation, Inc., and OOIDA) specifically expressed support for the proposed modifications.

AIST Safety Consulting supported FMCSA’s proposal to remove the phrase “The Commercial Motor Vehicle (CMV) was struck because” to address unfair disqualification of CMVs that were the striking vehicle but could not have avoided the collision.” They also supported the acceptance of multi-vehicle crashes as eligible under the existing crash types.

The Independent Carrier Safety Association and ATA supported the change to the crash type originally worded “When the CMV was struck by a driver who admitted to falling asleep or admitted to distracted driving” to remove the admission requirement.

Barry Poole of Griffith, Indiana, recommended that FMCSA, “Please strike the term committing or attempting to commit suicide and replace with died by or attempting to die by.”

##### FMCSA Response

FMCSA will modify the list of existing crash types as proposed in the April 13, 2023, notice. These changes will encompass more scenarios, such as where the CMV was not the striking vehicle and multi-vehicle crashes.

### B. New Crash Types

Many commenters welcomed the addition of new eligible crash types to the program. The notice proposed adding the following types:

1. CMV was struck on the side by a motorist operating in the same direction.

2. CMV was struck because another motorist was entering the roadway from a private driveway or parking lot.

3. CMV was struck because another motorist lost control of their vehicle. The Police Accident Report (PAR) must specifically mention loss of control either in the citation, contributing factors, and/or PAR narrative.

4. Any other type of crash involving a CMV where a video demonstrates the sequence of events of the crash.

Twenty-six commenters supported the inclusion of the four new crash types. The crash type “Any other crash involving a CMV where a video demonstrates the sequence of events of the crash,” generated the most comments, with fourteen commenters (The Forward Group, Inc., Jeff Loggins, Trailiner Corp, AIST Safety Consultants, J.B. Hunt, NWRA, NTTC, Independent Carrier Safety Association, ATA, Werner Enterprises, Inc., David Search, and three anonymous posters) specifically addressing this change.

Three commenters (Jeff Loggins, Trailiner Corp, and an anonymous commenter) offered remarks on the challenges of uploading videos to the DataQs system. These commenters requested that the DataQs system be updated to allow upload of more file types and larger file sizes.

ATA, J.B. Hunt Transport, Inc., and an anonymous commenter expressed concerns with the Agency’s handling of video files. ATA’s comments noted “ATA urges FMCSA to further clarify that any video evidence should be reviewed, not just an onboard video recorder (*i.e.*, surveillance footage, cell phone video, etc.). Furthermore, FMCSA should clarify the expectation for demonstrating the sequence of events of the crash . . . FMCSA should not expect, nor require, video evidence in the hours and days leading up to the crash. Additionally, FMCSA should take steps to ensure data privacy when submitting video evidence and ensure that any video submissions are permanently deleted after a determination has been made.” J.B. Hunt Transport, Inc., believes that video submissions should be treated as confidential business information and exempt from public disclosure. An anonymous commenter inquired about the policies surrounding video

submissions, stating “What will be done with the videos that are submitted? . . . Just think it should also be disclosed if we will be submitting our private footage.”

In addition to the four proposed crash types, many commenters also requested the program expand to include other crash types. The crash types suggested by commenters are listed below.

1. Crashes at non-controlled intersections, when video evidence is provided
2. Crashes where the other vehicle tries to outrun the truck
3. Crashes with an abandoned vehicle left in the roadway
4. Crashes where the other vehicle makes an improper lane change or a sideswipe crash
5. Crashes where the other driver is not legally licensed to drive
6. Weather related crashes (2 comments)
7. Crashes where the other driver took unsafe actions (2 comments)
8. Crashes where the other vehicle is operated at excessive speed
9. Crashes where the other vehicle has an extreme lane incursion
10. Crashes where the other motorist causes the crash
11. Crashes where other vehicle pulls out of parking lot
12. Crashes where other vehicle “Failed to Maintain Lane”
13. Crashes where other vehicle fails to “yield right of way”
14. Crashes instigated by a road rage incident
15. Crashes if the Crash avoidance systems were not recording or detecting any harsh or hard handling prior to the crash or improper handling of the CMV prior to or at the time of the crash

#### FMCSA Response

FMCSA reviewed the list of proposed crash types and found that many were already incorporated in the new and modified crash types proposed in the April 2023, notice. FMCSA does not plan to include additional crash types beyond those proposed in the April 13, 2023, notice at this time. The eligible crash types listed are less complex crash events that do not require extensive expertise to review. Crash scenarios not specifically listed as eligible may be accepted to the program if a video showing the sequence of the crash is submitted with the request.

Regarding suggestions to increase file size and type limitations in DataQs to accommodate video file submissions, FMCSA notes that in September 2023, the file size limitation in DataQs was increased to 25 MB, and the system accepts most commonly used file

formats. In response to comments by ATA, J.B. Hunt and an anonymous commenter on video privacy and security, FMCSA notes that all files uploaded to DataQs are encrypted. Information submitted to the CPDP is not used for enforcement purposes. FMCSA also notes that documents uploaded to RDRs continue to be accessible in DataQs after a determination is made, and the RDR may be reopened if additional information is provided to the Agency. Federal records management regulations require the Agency to keep files submitted to the DataQs system for a mandated timeframe.

The video footage submitted with the CPDP request is expected to include the full sequence of the crash, but submitters should not include video files of hours or days preceding the crash. As a result, the final list of eligible crash types is as follows:

1. CMV was struck in the rear by a motorist
2. CMV was struck on the side at the rear by a motorist
3. CMV was struck while legally stopped at a traffic control device or parked, including while the vehicle was unattended
4. CMV was struck because another motorist was driving in the wrong direction
5. CMV was struck because another motorist was making a U-turn or illegal turn
6. CMV was struck because another motorist did not stop or slow in traffic
7. CMV was struck because another motorist failed to stop at a traffic control device
8. CMV was struck because another 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
9. CMV was struck because another motorist experienced a medical issue which contributed to the crash
10. CMV was struck because another motorist fell asleep
11. CMV was struck because another motorist was distracted (*e.g.*, cellphone, GPS, passengers, other)
12. CMV was struck by cargo or equipment from another vehicle, or debris (*e.g.*, fallen rock, fallen trees, unidentifiable items in the road)
13. CMV crash was a result of an infrastructure failure
14. CMV struck an animal
15. CMV crash involving a suicide death or suicide attempt

16. CMV was struck on the side by a motorist operating in the same direction as CMV
17. CMV was struck because another motorist was entering the roadway from a private driveway or parking lot
18. CMV was struck because another motorist lost control of the vehicle
19. CMV was involved in a crash with a non-motorist
20. 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, skydiver, or a deceased driver in another vehicle)
21. Any other type of crash, not listed above, where a CMV was involved and a video demonstrates the sequence of events of the crash

#### IV. Reminders on CPDP Process and System Impacts

##### A. Process

Two commenters (OOIDA and Bryan Henry) want FMCSA to proactively review crashes for preventability and remove the requirement for the motor carrier or driver to submit a request. OOIDA stated that “Given the CPDP data over the last five years, the burden should now fall on the agency, rather than the submitter, to overturn qualifying crashes . . . We believe transferring the burden to the agency to determine crash preventability will help keep safe, experienced motor carriers in business and will also reduce the current backlog of CPDP submissions.”

Additionally, two other commenters (Sanborn, Brandon, Duvall & Bobbitt Co., L.P.A. and Henry Seaton) believe that the CPDP lacks due process. Sanborn, Brandon, Duvall & Bobbitt Co., L.P.A. commented “We advocate for the CPDP to restore procedural and substantive due process to the CPDP by providing a hearing, a right to appeal, the right to subpoena evidence and witnesses, and by withholding the CSA score effects of crashes until the due process results in a finding the crash was preventable.”

Eleven commenters (Jeff Wood, Stephen Hobbs, AIST Safety Consulting, Knight-Swift Transportation, Ray Walker Trucking, TMC Transportation, Sanborn, Brandon, Duvall & Bobbitt Co., L.P.A., J.B. Hunt Transport, Inc., National Tank Truck Carriers, ATA, and OOIDA) addressed the review time associated with receiving a determination from the CPDP. All eleven comments on this topic noted that the review time is too long. J.B. Hunt Transport, Inc., asked FMCSA to ensure adequate staffing for the expanded program.

The April 2023 notice maintained that for crashes resulting in a fatality, proper DOT post-accident drug and alcohol testing results or the required explanation of why the tests were not completed or not completed within the timeframes specified in § 382.303(d)(1) and (d)(2), must be submitted. Knight-Swift Transportation commented on this requirement and would like more consideration for circumstances where privacy laws prevent the motor carrier from getting an update on the severity of injuries from the crash. They request that an “Undecided” determination be rendered only if the carrier does not provide a reason for not performing the test.

##### FMCSA Response

The CPDP process will remain initiated by a request from the motor carrier, driver, or authorized representatives. The burden is on the submitter to provide compelling evidence that the crash is eligible and not preventable. Submitters are encouraged to submit other documents to support their request including videos, pictures, and court documents. The crash data fields that are submitted to FMCSA in the Motor Carrier Management Information System (MCMIS) are a subset of the information that is available on the PAR. FMCSA does not have direct access to PARs or other supporting documentation about a crash; and a preventability determination requires more information than is available in MCMIS.

Regarding the due process comments, the CPDP is a voluntary program that supports the SMS. FMCSA does not believe that using recorded crashes for safety assessment and enforcement workload prioritization purposes constitutes deprivation of a property interest for which due process is required. This program does not amend any prior legislative rules, nor does it provide a basis for any new enforcement actions. And it does not require a notice and comment rulemaking under the Administrative Procedure Act (49 U.S.C. 551, 553). This program does not alter FMCSA’s safety fitness standard under 49 U.S.C. 31144 and 49 CFR part 385. As expressly stated on the SMS website, FMCSA uses SMS data to prioritize motor carriers for further monitoring, and data “is not intended to imply any federal safety rating of the carrier pursuant to 49 U.S.C. 31144.” This program does not impact preventability determinations made through FMCSA safety investigations conducted under 49 CFR part 385, nor the preventability standard contained therein. Preventability will be determined

according to 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.”

The crash preventability determinations made under this program thus will not affect any carrier’s safety rating or ability to operate. FMCSA will not issue penalties or sanctions on the basis of these determinations, and the determinations do not establish any obligations or impose legal requirements on any motor carrier. These determinations also will not change how the Agency will make enforcement decisions.

FMCSA emphasizes that these determinations do not establish legal liability, fault, or negligence by any party. Fault is generally determined in the course of civil or criminal proceedings and results in the assignment of legal liability for the consequences of a crash. By contrast, a preventability determination is not a proceeding to assign legal liability for a crash. Under 49 U.S.C. 504(f), FMCSA’s preventability determinations may not be admitted into evidence or used in a civil action for damages and are not reliable for that purpose (85 FR 27017, 27018).

If a submitter receives a determination that the crash was Preventable or Undecided, or if the RDR is closed for failure to submit additional requested documents, the RDR may be re-opened once. Additionally, submitters have an option to create a new RDR if additional documents or evidence is provided. FMCSA will reconsider the request if the submitter provides additional documentation to support the request.

Regarding Knight-Swift Transportation’s request for leniency on the program requirement for proper DOT post-accident drug and alcohol testing results or the required explanation of why the tests were not completed or not completed within the timeframes specified in § 382.303(d)(1) and (d)(2), the Agency will not change this requirement for fatal crashes. This program requirement aligns with carriers’ responsibilities for post-accident drug and alcohol testing outlined in the Federal Motor Carrier Safety Regulations.

FMCSA continues to provide clarification and individual reminders to submitters participating in the program, as questions have arisen. To assist the public in better understanding the CPDP process and system impacts,

FMCSA is providing the following reminders.

#### *Preventability Standard*

The Agency emphasizes that these changes to the CPDP do not affect the legal standard for or procedures governing FMCSA's safety fitness determinations under 49 U.S.C. 31144 and 49 CFR part 385, subpart A. The Agency's standard for making a preventability determination for purposes of assigning a safety fitness rating remains unchanged and is set forth in 49 CFR part 385, Appendix B, section II.B(e). The burden for a CPDP not preventable determination continues to be on the submitter to show by compelling evidence that the crash was not preventable. FMCSA will continue to display the current disclaimer on the SMS website and will continue to include language in its determination notifications to submitters explaining that a crash preventability determination does not assign fault or legal liability for the crash.

#### *Process*

FMCSA will continue to make a determination of "Preventable" if there is evidence that the driver or carrier could have prevented the crash or was prohibited from operating the CMV at the time of the crash. This includes, but is not limited to, out-of-service violations, license violations, and driver prohibitions in the Agency's Drug and Alcohol Clearinghouse.

FMCSA will continue to rely on the MCMIS crash report to confirm that the driver was properly licensed at the time of the crash. If this information is missing from the MCMIS report or MCMIS indicates the wrong license class for the vehicle being operated, the Commercial Driver's License Information System (CDLIS) report will be used to verify the driver's license. Additionally, the CDLIS report is used to confirm the driver was not operating with an open license withdrawal or while suspended due to a drug or alcohol violation. The crash will be deemed "Preventable" if documentation shows that the driver was not qualified at the time of the crash.

If CDLIS is used to verify the license and the driver has renewed the license or medical certificate since the date of the crash, evidence of licensing or medical certification on the date of the crash will continue to be requested from the submitter. Failure to provide any requested information within 14 calendar days will continue to preclude a "Not Preventable" determination and

result in an "Undecided" determination.

As a reminder, for crashes resulting in a fatality, proper DOT post-accident drug and alcohol testing results, or the required explanation of why the tests were not conducted or not completed within the timeframes specified in § 382.303(d)(1) and (d)(2), must be submitted. The tests must be conducted in accordance with the requirements of 49 CFR part 40, which requires the use of a urine specimen for drug testing and either breath or saliva testing for alcohol. An exception for post-accident alcohol testing conducted under the authority of Federal, State, or local officials permits the use of a blood test. Additionally, post-accident drug testing under the authority of Federal, State, or local officials requires the use of a urine specimen for drug testing. The crash will be deemed "Preventable" if the drug or alcohol test results are positive or the driver refuses to submit to a test. More information about proper drug and alcohol testing procedures can be found at <https://www.fmcsa.dot.gov/regulations/drug-alcohol-testing-program>.

Failure to provide requested documents within 14 calendar days may preclude a "Not Preventable" determination and may result in an "Undecided" determination.

#### *B. Document Requirements*

Three commenters (Siskiyou Transportation, Inc., ATA, and Werner Enterprises, Inc.) responded to FMCSA's continued requirement for submitters to provide the complete PAR to participate in the program. Siskiyou Transportation, Inc. and ATA want FMCSA to accept requests that do not include a PAR but have other crash information reports. Werner Enterprises, Inc. would like the PAR requirement rescinded for requests where there is sufficient video footage of the event. Both ATA and Werner Enterprises, Inc. commented on the difficulty and delay that is associated with obtaining PARs.

#### *FMCSA Response*

FMCSA will continue to require a PAR issued from a law enforcement agency as a condition of eligibility for the program. This official documentation is needed to corroborate other information provided with the RDR to ensure the correct carrier, driver, and crash event is being reviewed for preventability. Additionally, the Agency found during the 2-year Crash Preventability Demonstration Program that the PAR is best single source of crash information and that the majority of PARs submitted contained sufficient

detail to complete a preventability review (84 FR 38087).

#### *C. Impacts to SMS and PSP*

FMCSA did not propose changes to the use, display, and notations of determinations from the CPDP on SMS and PSP. Six commenters (the National Motor Freight Traffic Association (NMFTA), TMC Transportation, the Owner-Operators OOIDA, Lewis Britton, Jeff Loggins, and Sanborn, Brandon, Duvall & Bobbitt Co., L.P.A.) recommended that FMCSA modify how crashes submitted to the program, and those determined "Not Preventable," are handled on SMS and PSP. NMFTA and OOIDA want FMCSA to remove crashes determined "Not Preventable" entirely from SMS. TMC Transportation would like a 30-day grace period before a crash is posted to SMS so the carrier has an opportunity to request a preventability review of the crash. Lewis Britton, Jeff Loggins, and Sanborn, Brandon, Duvall & Bobbitt Co., L.P.A. would like FMCSA to suspend the use of crashes submitted to the CPDP in SMS calculations while the requests are under review.

#### *FMCSA Response*

FMCSA is not making changes to the way determinations from the CPDP are used, displayed, or notated on SMS and PSP at this time. FMCSA will continue to list Not Preventable crashes on the public SMS website. However, the crash will continue to appear in a separate table from all other crashes. Crashes found to be "Not Preventable" will not be included in the calculation of the motor carrier's Crash Indicator BASIC. Crashes found to be "Preventable" and "Undecided" will continue to be used in the calculation of the Crash Indicator BASIC. Only not preventable determinations will continue to be noted on the driver's PSP record. The Agency believes that the public display of all crashes, regardless of the preventability determination, provides the most complete information regarding a motor carrier's safety performance record. The Agency is committed to the open and transparent reporting of safety performance data.

FMCSA is committed to ensuring that its methodology for prioritizing motor carriers for interventions accurately reflects carriers' safety performance. The Agency will continue to evaluate the methodology's effectiveness and propose improvements when needed.

#### *D. Implementation of Crash Type Updates to CPDP*

FMCSA stated in the April 2023, notice that it expected to have a start date for the new crash types, and the

new crash types would not be retroactive, that is, a crash that occurred before the start date of the new crash types would not become eligible for submission under the CPDP after the start date. Keith Shields, John Casey, and an anonymous commenter requested that FMCSA apply eligibility of the new crash types retroactively. Keith Shields asked that the new crash types apply to crashes that occurred 1 year to 18 months before the start date of the new crash types. The anonymous commenter would like a 12-to-24-month retroactive application for the acceptance of crashes with video evidence.

FMCSA Response

The eligibility criteria for the new and updated crash types will not be applied retroactively to ensure that crashes that occurred during the same period are analyzed with a consistent set of criteria. The Agency will accept RDRs for the new and updated crash types for crashes that occur on or after December 1, 2024. FMCSA will announce on the CPDP website at <https://www.fmcsa.dot.gov/crash-preventability-determination-program> when DataQs will be available to accept the submissions of the new and updated crash types. Crashes that occur before December 1, 2024, will be evaluated under the eligibility criteria established on May 2020 (87 FR 27017).

The Agency reworded the updated crash type to expand eligibility by including indirect types of crashes. For example, “CMV was struck by a driver who experienced a medical issue which contributed to the crash” has changed to “CMV was struck because another motorist experienced a medical issue which contributed to the crash,” which allows for scenarios where a motorist (V1) experiencing a medical issue strikes another vehicle (V2) which then strikes a CMV (V3). To be eligible for the prior definition, V1 had to directly strike V3, but the updated changes allow for an indirect strike.

The below table shows the current list and new and updated eligible crash types for crashes occurring on or after December 1, 2024:

Current list of eligible crash types	Final list of new and updated eligible crash types (for crashes occurring on or after December 1, 2024)
<ol style="list-style-type: none"> <li>1. CMV was struck in the rear by a motorist .....</li> <li>2. CMV was struck on the side at the rear by a motorist .....</li> <li>3. MV 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.</li> <li>4. CMV was struck by a motorist driving in the wrong direction .....</li> <li>5. CMV was struck by another motorist in a crash when a driver was operating in the wrong direction.</li> <li>6. CMV was struck by a vehicle that was making a U-turn or illegal turn</li> <li>7. CMV was struck by a vehicle that did not stop or slow in traffic .....</li> <li>8. CMV was struck by a vehicle that failed to stop at a traffic control device.</li> <li>9. 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 or other test, or refused to test.</li> <li>10. CMV was struck 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 or other test, or refused to test.</li> <li>11. CMV was struck by a driver who experienced a medical issue which contributed to the crash.</li> <li>12. CMV was struck by a driver who admitted falling asleep or admitted distracted driving (e.g., cellphone, GPS, passengers, other).</li> <li>13. 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.</li> <li>14. CMV struck an animal .....</li> <li>15. CMV struck an individual committing or attempting to commit suicide.</li> <li>16. 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).</li> </ol>	<ol style="list-style-type: none"> <li>1. CMV was struck in the rear by a motorist.</li> <li>2. CMV was struck on the side at the rear by a motorist.</li> <li>3. CMV was struck while legally stopped at a traffic control device or parked, including while the vehicle was unattended.</li> <li>4. CMV was struck because another motorist was driving in the wrong direction.</li> <li>5. CMV was struck because another motorist was making a U-turn or illegal turn.</li> <li>6. CMV was struck because another motorist did not stop or slow in traffic.</li> <li>7. CMV was struck because another motorist failed to stop at a traffic control device.</li> <li>8. CMV was struck because another 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.</li> <li>9. CMV was struck because another motorist experienced a medical issue which contributed to the crash.</li> <li>10. CMV was struck because another motorist fell asleep.</li> <li>11. CMV was struck because another motorist was distracted (e.g., cellphone, GPS, passengers, other).</li> <li>12. CMV was struck by cargo or equipment from another vehicle, or debris (e.g., fallen rock, fallen trees, unidentifiable items in the road).</li> <li>13. CMV crash was a result of an infrastructure failure.</li> <li>14. CMV struck an animal.</li> <li>15. CMV crash involving a suicide death or suicide attempt.</li> <li>16. CMV was struck on the side by a motorist operating in the same direction as CMV.</li> <li>17. CMV was struck because another motorist was entering the roadway from a private driveway or parking lot.</li> <li>18. CMV was struck because another motorist lost control of the vehicle.</li> <li>19. CMV was involved in a crash with a non-motorist.</li> <li>20. 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, skydiver, or a deceased driver in another vehicle).</li> </ol>

Current list of eligible crash types	Final list of new and updated eligible crash types (for crashes occurring on or after December 1, 2024)
	21. Any other type of crash, not listed above, where a CMV was involved and a video demonstrates the sequence of events of the crash.

**V. Other Comments on Changes Not Proposed**

In addition to the changes proposed in the April 2023, notice, six commenters (Jeff Loggins, Steve Davis, AIST Safety Consulting, Knight-Swift Transportation, Siskiyou Transportation, Inc., and TMC Transportation) requested that FMCSA expand the eligibility requirements for the crash type “CMV was struck because another motorist was driving in the wrong direction.” The current eligibility guide states that the crash must have the following elements, “The vehicle in the crash was driving in the wrong direction (e.g., northbound in the southbound lanes) AND the vehicle was completely in the wrong lane (i.e., not partially across the center line).” All six commenters want FMCSA to consider crashes where the other vehicle was partially across the center line as eligible under this crash type. Steve Davis made the recommendation, “My recommendation is that if any portion of the oncoming vehicle crosses the center line and strikes our CMV resulting in a DOT Recordable accident, then it should be deemed as non-preventable on the part of the motor carrier.” AIST Safety Consulting would like FMCSA to, “Broaden eligibility for Wrong Direction cases . . . Consider cases where a vehicle is partially in the opposite lane, making it impossible for a CMV to avoid a collision without swerving dangerously.” The comments from Knight-Swift Transportation included the suggestion, “Wrong way accidents—we would like the CPDP amended to allow for wrong way accident to allow DataQ submission when:

1. Not Fully Over the Centerline—The vehicle that struck the CMV was not completely over the center line when the crash occurred.
2. Opposing Direction Sideswipe—The vehicle that struck the CMV was not completely over the center line when it side-swiped the CMV.

Three commenters would like FMCSA to offer educational resources for carriers and drivers submitting requests to CPDP. Joshua Anderson would like additional fields when submitting an RDR to help users select the appropriate crash type. AIST Safety Consulting recommends adding a glossary to the Eligibility Guide that is available at

<https://fmcsa.dot.gov/crash-preventability-determination-program>. And ATA wants enhanced resources for carriers that explain the RDR process, including minimum documentation requirements.

**FMCSA Response**

The current eligibility guide states that the crash must have the following elements, “The vehicle in the crash was driving in the wrong direction (e.g., northbound in the southbound lanes) AND the vehicle was completely in the wrong lane (i.e., not partially across the center line).” In response to the commenters, the Agency is staying with the current criteria for the “wrong direction” crash type and will NOT allow for partial crossing of the center line. As stated above, the crash types that are eligible for the CPDP are less complex crash events that do not require extensive expertise to review. However, the addition of the new crash type, where a CMV was involved and a video demonstrates the sequence of events of the crash, may allow for partial crossing of the center line types of crashes.

FMCSA will continue to update the Eligibility Guide to ensure it provides the most up-to-date criteria for each crash type. All the resources published on the <https://www.fmcsa.dot.gov/crash-preventability-determination-program> website will be updated to ensure submitters have the resources to make a complete request.

**VII. Next Steps**

FMCSA will post information on the CPDP website <https://fmcsa.dot.gov/crash-preventability-determination-program> notifying submitters of the date when FMCSA will accept submissions under the new and updated crash types set forth in this notice.

**Vincent G. White,**  
Deputy Administrator.

[FR Doc. 2024–28377 Filed 12–3–24; 8:45 am]

**BILLING CODE P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Motor Carrier Safety Administration**

[Docket No. FMCSA–2022–0246]

**Parts and Accessories Necessary for Safe Operation; Application for an Exemption From Polytech Plastic Molding, Inc., USDOT #1764512**

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

**ACTION:** Notice of final disposition; denial of exemption.

**SUMMARY:** The Federal Motor Carrier Safety Administration (FMCSA) announces its decision to deny an application from Polytech Plastic Molding, Inc. (Polytech, USDOT #1764512) for an exemption to allow it to operate commercial motor vehicles (CMVs) equipped with a module manufactured by Intellistop, Inc. (Intellistop). The Intellistop module is designed to pulse the required rear clearance, identification, and brake lamps from a lower-level lighting intensity to a higher-level lighting intensity 4 times in 2 seconds when the brakes are applied and then return the lights to a steady-burning state while the brakes remain engaged. The Agency has determined that Polytech did not demonstrate that it would likely achieve a level of safety equivalent to, or greater than, the level of safety achieved by the regulation.

**FOR FURTHER INFORMATION CONTACT:** Mr. David Sutula, Vehicle and Roadside Operations Division, Office of Carrier, Driver, and Vehicle Safety, MC–PSV, (202) 366–9209, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590–0001; [MCPSV@dot.gov](mailto:MCPSV@dot.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Viewing Comments and Documents**

To view comments, go to [www.regulations.gov](http://www.regulations.gov), insert the docket number “FMCSA–2022–0246” in the keyword box, and click “Search.” Next, sort the results by “Posted (Newer-Older),” choose the first notice listed, click “Browse Comments.”

To view documents mentioned in this notice as being available in the docket, go to [www.regulations.gov](http://www.regulations.gov), insert the