

September 1, 2016

Docket Management Facility  
US Department of Transportation  
1200 New Jersey Avenue SE  
West Building Ground Floor  
Room W12-140  
Washington, D.C. 20590-0001

**Re: Docket # FMCSA-2014-0177**

**Introduction:**

The Institute of Scrap Recycling Industries, Inc. (ISRI) submits the following comments to the Federal Motor Carrier Safety Administration (FMCSA) regarding its Crash Preventability Program.

ISRI represents more than 1300 companies, in 34 countries (of which 800 of those companies have US DOT authority). Nationally ISRI has 21 chapters nationwide that process, broker, and consume scrap commodities, including metals, paper, plastics, glass, rubber, electronics and textiles. With headquarters in Washington, D.C. the institute provides education, advocacy, safety compliance training, and promotes public awareness of the vital role recycling plays in the U.S. economy, global trade, the environment, and sustainable development.

**Summary of Position:**

ISRI strongly feels that non-preventable crashes should not be reflected in carriers CSA profile or be used to calculate a Crash Indicator BASIC score. While ISRI agrees with FMCSA that is important to thoroughly analyze crashes to determine crash measures, and a crash BASIC score, motor carriers (ISRI member companies with US DOT authority) are negatively affected by the use, and impact that non-preventable crashes can have on a motor carrier's CSA BASIC Score history.

Without properly differentiating between crashes that are obviously the fault of another party, and those that could have reasonably been prevented by the driver of the commercial motor vehicle, Crash BASIC data is less reliable and informative than it would otherwise be.

**Comments:**

- FMCSA proposes to consider limiting preventability to four specific accident types (offenses). A crash would be considered preventable if the CMV was struck by a motorist who was convicted of one of the four following offenses or a related offense:
  1. Driving under the influence
  2. Driving the wrong direction
  3. Striking a CMV in the rear
  4. Striking a CMV while it was legally stopped

ISRI agrees that the offense crash types that are included in the proposal list are easy to discern, but FMCSA should not limit consideration for preventability to such a narrow list. This proposal arbitrarily and unnecessarily excludes other potential crash types for consideration that under any standard should not be excluded. Listed below are a few examples:

- a. In reality non-preventable crashes would only be removed from the carrier's record if the CMV was "struck by a motorist convicted by one of the four traffic offenses." The "convicted" requirement presumes that if the truck can be hit by a drunk driver, someone going the wrong way on an interstate, struck in the rear, or when the CMV is legally stopped a conviction on the offending motorist would automatically follow. This theory is flawed and strips the proposal of fairness.
  - b. An elderly motorist operating a passenger car fails to yield to a traffic signal (red light or stop sign) travels into an intersection and strikes the rear tandems of a 53' trailer, the driver of the CMV legally entered the intersection, and could not see or anticipate the actions of the other motorist. The police did not cite the elderly driver despite noting a clear causation factor on the crash report.
  - c. A CMV strikes an animal, and the crash is automatically considered preventable, although the police crash report may note that the animal was the only causation factor. For this crash type, FMCSA proposes to require the motor carrier to file a Data Q challenge to provide sufficient proof in its RDR (request for data review) to prove that the crash was non-preventable. This places an unnecessary burden on the motor carrier, and in the interim it creates a false inference of culpability.
  - d. A CMV is struck in the rear by a drunk driver, as a result of the crash the drunk driver is killed, therefore, no citation is issued. For this crash type, FMCSA proposes to require the motor carrier to file a Data Q challenge to provide sufficient proof in its RDR (request for data review) to prove that the crash was non-preventable. This places an unnecessary burden on the motor carrier, and in the interim it creates a false inference of culpability.
  - e. An individual commits suicide by stepping/jumping into the path of a CMV (no citation is issued). For this crash type, FMCSA proposes to require the motor carrier to file a Data Q challenge to provide sufficient proof in its RDR (request for data review) to prove that the crash was non-preventable. This places an unnecessary burden on the motor carrier, and in the interim it creates a false inference of culpability.
- A poor CSA score in the Crash Indicator BASIC can have a tremendous negative impact on the carrier's ability to do business. Even though the public does not have the ability to view the Crash Indicator BASIC, many shippers require carriers to supply them with their Crash Indicator BASIC data. With all DOT accidents being reported, regardless of fault, the shipper may not get an accurate impression of the carrier's safety performance.
  - In addition, vehicle miles traveled (VMT) and the total number of carrier crashes (regardless of fault) are published on the Safety and Fitness Electronic Records

(SAFER) System. So details of all motor carrier crashes including frequency and severity are available to the public. This may also cause a negative impact on a motor carrier's ability to do business.

- In regards to Police Accident Reports (PAR's), previous FMCSA research has determined that the information contained in police reports is sufficient to make a determination of causation for 88% of crashes. Because the content and format of police accident reports differ across the country, ISRI recommends standardizing accident investigation police reports. By having standardized forms, investigators would be more likely to provide the necessary information to make an accurate determination of causation.

**Conclusion:**

ISRI appreciates FMCSA's effort to strip the system of non-preventable crashes. The limited crash scenarios proposed provide a start for identifying circumstances that are unquestionably not the fault of the motor carrier, but the list should be expanded.

ISRI strongly feels that non-preventable crashes should not be reflected in carriers CSA profile or be used to calculate a Crash Indicator BASIC score. To accomplish this, we recommend that FMCSA immediately begin a process that can remove the carrier's non-preventable crashes and instruct state agencies not to upload them into the Motor Carrier Management Information System.

Sincerely,



Commodore E. Hall, CDS  
Transportation Safety Director  
Institute of Scrap Recycling Industries, Inc.