DP24-004

Evaluation Report

The Office of Defects Investigation (ODI) received a petition from Eric Hein, Director of the Institute for Safer Trucking dated July 3, 2024, requesting an investigation of all van-type (also known as box) semi-trailers due to collisions with passenger vehicles and other vulnerable road users (pedestrians, bicyclists, or motorcyclists) resulting in significant injuries or death due to the lack of side underride guards (SUGs). On August 26, 2024, NHTSA opened Defect Petition DP24-004 to evaluate the petitioner's request. No trailer manufacturer or equipment supplier was identified as the specific subject of the petition. The petition itself can be reviewed at NHTSA.gov under ODI Number 11599188.

Currently, a Federal Motor Vehicle Safety Standard (FMVSS) requiring side underride guards on semi-trailers does not exist. The petitioner contends that a failure to include side underride guards equates to a safety defect in the semi-trailer's design, construction and performance. ODI was petitioned in 2021 for this same issue and, after evaluation, denied the request (DP21-004). The petitioner here states that evidence of SUG effectiveness to prevent fatalities and mitigate serious injuries "has continued to accumulate" since the denial of DP21-004. The petitioner also alleges that "[d]espite a high severity of risk resulting in frequent severe or fatal injuries from side underride crashes, NHTSA has taken no action to investigate recalling semi-trailers without SUGs."

Pursuant to the Infrastructure Investment and Jobs Act (IIJA), NHTSA published an Advanced Notice of Proposed Rulemaking that summarized and requested comment on a 2022 NHTSA

report with an analysis of potential effects of a requirement for side underride guards on new trailers and semitrailers. 88 Fed. Reg. 24536 (Apr. 21, 2023). NHTSA's Office of Rulemaking is currently reviewing over 2,000 comments received. Also pursuant to the IIJA, on June 18, 2024, the NHTSA-facilitated Advisory Committee on Underride Protection (ACUP) issued its biennial report to Congress and the Secretary of Transportation. This biennial report consists of a majority report and a minority report summarizing its work to provide advice and recommendations to the Secretary on safety regulations related to underride crashes that have caused severe injury and death. Though the committee's charter was extended through June 2025, the committee concluded its work following the publication of the biennial report in June 2024.

In addition, NHTSA previously announced several actions related to truck trailer underride safety, including improving data collection of underride crashes by recommending inclusion of underride data in state crash data systems and by providing educational materials to state and local police departments on identifying and recording underride crashes. ODI also actively participates in the Commercial Vehicle Safety Alliance (CVSA) events where it has encouraged law enforcement to report underride crashes, and proposed CVSA focus on underride guards during the 2024 Operation Road Check, a nationwide 72-hour safety blitz. NHTSA is, further, conducting research on rear impact guard designs that better protect occupants of passenger vehicles in even more rear underride crash scenarios. And NHTSA, with the Federal Motor Carrier Safety Administration (FMCSA), published a pamphlet in August 2022—which was distributed to law enforcement through various channels—that explains how to identify and record such crashes (this pamphlet is available at

https://www.nhtsa.gov/sites/nhtsa.gov/les/2022-08/Underride-Crash-Pamphlet_071522_v6atag.pdf).

ODI searched its databases and found no injury or fatality trend specific to any make, model, or model year trailer within Vehicle Owner Questionnaire (VOQ) and Early Warning Reporting (EWR) data and found only one EWR report of vulnerable road user injury or fatalities. ODI also met, separately, with Utility Trailer Manufacturing Co. (UTM) and Auto Haulers Association of America (AHAA) regarding UTM's SUG and to better understand the operational environment of low clearance vehicles, respectively. Based on the information available to the agency, trailer manufacturers continue to pursue side underride guard technology, and at least one manufacturer is currently offering an optional guard.

The petitioner submitted two documents to ODI on September 11, 2024. The first was a letter from UTM to Marianne Karth (Petitioner of DP21-004 & DP22-004) which recounted UTM's testing of SUGs. The second document was an information sheet generated by the petitioner contesting UTM's claims. The petitioner also submitted certain documents to ODI on October 1, 2024, which the petitioner had previously submitted separately as part of comments on a collection of information pertaining to Reporting and Documents About Potential Defects (Docket No. NHTSA-2024-0055). This included forth-five (45) files regarding forty-nine (49) unique crashes. ODI reviewed that information and found that of the forty-nine (49) crashes, twenty-nine (29) potentially involved a subject vehicle. The majority of the forty-five (45) files were from the Fatality Analysis Reporting System (FARS), which is a NHTSA-maintained database of state crash data comprised of certain, albeit often relatively limited information.

Notably, of the twenty-nine files (29), only two (2) included the make, model, and model year of the subject vehicle.

After consideration of the petition, including the reports and documents provided by the petitioner, NHTSA believes the issues raised here are best addressed through its recent rulemaking and the ongoing actions under IIJA. Accordingly, NHTSA has decided not to open a defect investigation, and the petition is denied. The denial of this petition does not foreclose the agency from taking further action if warranted or making a future finding that a safety-related defect exists based upon additional information the agency may receive.