



February 4, 2021

The Honorable Pete Buttigieg, Secretary of Transportation
U.S. Department of Transportation
1200 New Jersey Avenue, SE
Washington, DC 20590

Petition for Comprehensive Underride Supplemental Rulemaking

Federal Motor Vehicle Safety Standards 49 CFR Part 571,
Rear Impact Guards, Rear Impact Protection;
Notice of Proposed Rulemaking; Docket No. NHTSA-2015-0118

Dear Secretary Buttigieg:

AnnaLeah & Mary for Truck Safety hereby petitions the National Highway Traffic Safety Administration (NHTSA) to **amend the requirements for underride protection on Commercial Motor Vehicles.**

Truck crash fatalities continue to be a traffic safety and public health problem in the U.S. NHTSA [data](#) shows that, *Fatalities in crashes involving at least one large truck showed relatively no change, decreasing from 5,006 in 2018 to 5,005 in 2019.* Many of those crashes involve Passenger Compartment Intrusion (PCI) when the passenger vehicle rides *under* the frame of the large truck. A [study](#) of fatal crashes between large trucks and cars by the Insurance Institute for Highway Safety (IIHS) estimated that [front](#), [rear](#), or [side underride](#) occurred in approximately half of these crashes. A GAO [Truck Underride Report](#), published in 2019, acknowledged a [well-known](#) fact that [underride deaths](#) have, in fact, been [undercounted](#).

Engineers have developed practical measures for front, side, and rear underride protection, which have been used for years in England, Europe, Australia, and other countries, to prevent underride thereby enabling the [crashworthy features](#) of automobiles to function as intended -- making truck crashes more survivable. Though these safety devices could make a significant reduction in unnecessary deaths and severe injuries, they are being [ignored](#) by American industry. In fact, [truck](#) and trailer manufacturers, who install such safety structures in Europe and Australia, as well as other countries, are negligently *not* also installing them on their trucks in the U.S. A similar [opposition](#) occurred in the auto industry for decades after Ralph Nader published his book, *Unsafe at Any Speed*. This ongoing battle is well-documented in Michael Lemov's book, [Car Safety Wars: One Hundred Years of Technology, Politics, and Death](#).

The trucking [industry](#)'s pattern of resistance to implementation of [well-known](#) and developed safety features has been documented by the Transportation Research Board,

Given these realities, the federal government plays an important role in the process of introducing new safety technologies into the commercial market. . . In some cases, regulation may be the only way to achieve significant deployment. Even when there is a general consensus that the total benefits of introduction of a new safety technology would outweigh the total costs, there is still the problem of convincing individual vehicle buyers to pay for societal benefits. A regulatory requirement would level the playing field by requiring all companies to buy the equipment and thus eliminate the competitive financial disparity. [The Domain of Truck and Bus Safety Research](#)

On [May 5, 2014](#), we petitioned the NHTSA to upgrade the Federal Motor Vehicle Safety Standards (FMVSS) on rear impact protection for semi-trailers (49 CFR 571.223, 224), as well as to initiate rulemaking for side guards, front underride protection, and underride protection on Single Unit Trucks. Whereas, the NHTSA issued a Notice of Proposed Rulemaking ([NHTSA-2015-0118](#)) to upgrade the rear impact guards on trailers and issued an Advance Notice of Proposed Rulemaking ([NHTSA-2015-0070](#)) on Single Unit Trucks, they have not completed rear impact guard upgrade rulemaking and have withdrawn the Single Unit Truck rulemaking due to a supposed lack of [cost-effectiveness](#). In addition, whereas the NHTSA indicated on [July 10, 2014](#), that they would issue a separate decision on our request for *side* guards and *front* underride protection at a later date, they still have not done so.

In the almost eight years since our underride crash on [May 4, 2013](#), we have been contemplating how the Department of Transportation (DOT) could act to propose more effective and comprehensive underride rulemaking. On December 8, 2015, NHTSA Administrator Mark Rosekind called to tell us that the Rear Guard proposed rule was being published in the Federal Register. It was very clear, however, that the NPRM, which proposed an upgrade to the current Canadian standard, fell short of what was needed and possible -- as shown by [IIHS underride crash testing research](#).

In addition, as [other petitioners](#), including the NTSB and the IIHS, have demonstrated, the underride problem does not occur only at the [rear](#) of trailers. Underride happens far too regularly at the [sides](#) and [front](#) of large trucks of all kinds, as well. With that in mind, we are formally petitioning the DOT to issue a Supplemental Notice of Proposed Rulemaking (SNPRM), which will lead to a comprehensive underride protection rule (as originally requested in our [May 5, 2014 petition](#)).

Our vision for rulemaking to end the deadly underride problem is thoroughly laid out in the [STOP Underrides! Act of 2019](#) -- S.665 and HR.1511. The House Transportation & Infrastructure Committee pulled portions from that bill and included them in the [HR.2 Moving](#)

[Forward Act of 2020](#) - passed on July 1, 2020. While HR.2 [does not include](#) everything which we think needs to be done, it does send a clear message about what leaders of this country want the DOT to accomplish.

Specifically, in regards to deadly crashes at the *sides* of large trucks, it is time to take action on the Department's intention [in 1969](#) to extend underride protection to the sides of large vehicles. With that in mind, we are petitioning the NHTSA to issue side guard rulemaking in line with this [Consensus Side Guard Standard](#) developed by an Underride Engineering Subcommittee:

A side underride guard shall be considered to meet the performance standard if it is able to provide vehicle crash compatibility with a midsize car, to prevent intrusion into the occupant survival space, when it is struck at any location, at any angle, and at any speed up to and including 40 mph.

Deadly crashes at the *front* of large trucks occur even more frequently than at the sides or rear (p. 17 in this [report](#)). It is past time to take action in this country about a problem which other countries have decided warrants a [FUP standard](#) and who have developed [FUP technology](#). In fact, truck manufacturers have installed it on their trucks sold overseas but not on their trucks sold in the U.S. According to a Volvo [press release](#) in 2018,

From day one, the Volvo FH has been a forerunner in safety. Not the least within passive safety, where Volvo Trucks was the first truck brand to offer airbag (1995) and also introduced Front Underrun Protection System (FUPS) in 1996, ten years before it became a legal requirement. This progress continues to this day and the truck is also equipped with the latest active safety systems.

Therefore, we are hereby petitioning the NHTSA to get in line with international standards and **adopt** the United Nations Economic Commission for Europe – **UNECE – R 93** in order to require Front Underride Protection (FUP) on all large trucks. FUP involves an impact barrier of prescribed strength and dimensions that catches or deflects a passenger vehicle during a collision to stop it sliding under a Commercial Motor Vehicle. [In combination](#) with collision detection technologies and improved braking systems, you can protect road users with available underride prevention technology. Neglecting to do so is unconscionable and senseless.

We are providing you with links, which elaborate on the validity of a strategy to transform the existing rear guard [NPRM](#) into a [SNPRM](#) in order to enable us to move forward with a sense of urgency to bring about an end to preventable truck underride tragedies:

- [33 CFR § 1.05-40 - Supplemental notice of proposed rulemaking \(SNPRM\). | CFR](#)
- [The Rulemaking Process](#) See: Before The Final Rule section, HOW DO PUBLIC COMMENTS AFFECT THE FINAL RULE?
- [14 CFR § 11.7 - What is a supplemental notice of proposed rulemaking?](#)

- [Supplemental Notice of Proposed Rulemaking \(SNPRM\)](#) *A supplemental notice of proposed rulemaking is a notice and request for comment published in the Federal Register when an agency has made significant substantive changes to a rule between the [Notice of Proposed Rulemaking](#) and the final rule. The SNPRM allows the public to comment on the changes. A "significant substantive change" is any new requirement in the rule that goes beyond the scope of the requirements in the NPRM. The agency may enact the other requirements of the final rule while accepting comments on the SNPRM.*

We are asking that you get the ball rolling immediately, including establishment of an [Advisory Committee on Underride Protection](#) to guide the rulemaking process. Do not let the Tyranny of the Urgent deter you from giving underride rulemaking the priority it deserves.

You, the Honorable Pete Buttigieg, Secretary of Transportation, have the great opportunity to take action on this decades-long safety issue. We are pleading, on behalf of all American families and citizens, that you commit your Department and the NHTSA to achieving the goal, [before this decade is out](#), to have front, side, and rear underride protective structures installed on all new trucks -- thereby saving many lives and preventing untold grief.

On behalf of countless underride victims,

Jerry and Marianne Karth

[*In Memory of AnnaLeah & Mary Karth*](#)

We are joined in this request by the petitioners who have signed their names below: