

MyCliffsNotes - IQA SIG Request for Correction (September 2026)

Section of the Letter	Highlights of Each Section
Re: Request for Correction of Information under the Information Quality Act "Side Impact Guards for Combination Truck Trailers: Cost-Benefit Analysis" Docket No. NHTSA-2023-0012; RIN 2127-AM54. Submitted August 29, 2026, Posted in the Federal Register on September 1, 2026.	
Attachments to the Federal Register	
Background and Prior Notice to NHTSA	<u>Author, Eric Hein:</u> "I am a retired U.S. Fish and Wildlife Service policy analyst with graduate-level statistics training and extensive experience evaluating regulatory analyses under the Administrative Procedure Act. I am a board member of the Institute for Safer Trucking. In 2026, I published a peer-reviewed cost-benefit analysis of side underride guard regulation in the Journal of Progress in Safety and Security (Hein 2026). I have filed two defect petitions with NHTSA on side underride guards. My son Riley was killed in a side underride crash on November 13, 2015. "Many of the deficiencies in this request share a common root: a failure to base the analysis on the best reasonably available scientific, technical, economic, and other information on the need for, and consequences of, the intended regulation, the standard the federal government has set for regulatory analysis for decades (E.O. 12866). NHTSA says it met that standard, stating it conducted the analysis "according to Circular A-4," which requires the agency to base its analysis on "the best reasonably obtainable scientific, technical, and economic information available" (Section E.3.a). The CBA Report does not meet this standard. NHTSA has known about my concerns through a series of formal submissions and direct communications, summarized below"
The CBA Report Constitutes Influential	The CBA Report is influential scientific

Information	information under the DOT Guidelines: information that is a major factor in resolving key issues in a significant regulatory action. It was the sole quantitative basis for the April 2023 ANPRM and NHTSA (2024) Report to Congress. In that Report to Congress, NHTSA cited the CBA Report's finding that "the net benefits for a side underride guard requirement on trailers and semitrailers are estimated to be negative and in the range of -\$1.038 billion to -\$844 million" as its analytical basis, and then failed altogether to make the determination required by Section 23011(c)(4)(C), which directs the Secretary to include in the Report to Congress "a determination as to whether the Secretary intends to develop performance requirements for side underride guards, including any analysis that led to that determination." That determination is the step that triggers the Secretary's obligation under Section 23011(c)(1)(D) to "if warranted, develop performance standards for side underride guards," resting on the feasibility, benefits, and costs the Secretary was directed to evaluate under Section 23011(c)(1)(B). The word "warranted" does not appear in the Report. The Report was also submitted to Congress eight months past the statutory deadline and omitted the summary of public comments required by Section 23011(c)(4)(B). Each of these failures followed from the CBA Report's flawed findings. The CBA Report is also the sole analytical basis for the ongoing action at RIN 2127-AM54, which NHTSA continues to classify as economically significant in the 2026 Unified Agenda. The CBA Report substantially underestimates the benefits of side underride guards.
<u>The Following Corrections Are Requested:</u>	
1. The CBA Report Did Not Establish a No-Action Baseline	Circular A-4 requires agencies to define benefits and costs against a clearly stated No-Action baseline identifying what the world

	will look like if the rule is not adopted (OMB 2003, 2023). The CBA Report did not estimate a baseline identifying the current annual societal cost of side underride fatalities and serious injuries. Without it, a reader is likely to conclude wrongly that the No-Action alternative is cost-neutral.
2. The CBA Report Excluded Pedestrian, Bicyclist, and Motorcyclist Fatalities That Could be Prevented	The CBA Report excluded any benefit estimates from pedestrian, bicyclist, and motorcyclist fatalities and serious injuries. Many of the deficiencies in this request share a common root: a failure to base the analysis on the best reasonably available scientific, technical, economic, and other information on the need for, and consequences of, the intended regulation, the standard the federal government has set for regulatory analysis for decades (E.O. 12866). NHTSA says it met that standard, stating it conducted the analysis "according to Circular A-4," which requires the agency to base its analysis on side crashes with large trucks and trailers. Neither the CBA Report nor the ANPRM disclosed the exclusion, explained it, or acknowledged that a known population was being omitted. The ANPRM mentioned lateral protection devices only in passing, and only to distinguish them from side underride guards, without counting any benefit to those road users. NHTSA had access to extensive relevant research which they reviewed. They knew all of this and excluded VRUs without a word.
3. The CBA Report Ignored NHTSA's Manufacturer Survey and Inflated the Semitrailer Population	In December 2021, NHTSA sent information requests to the eight semitrailer manufacturers it identified as representing nearly 100 percent of the subject vehicle population: Great Dane, Hyundai Translead, Kentucky Trailer, Stoughton, Strick Trailers, Utility Trailer Manufacturing, Vanguard, and Wabash (NHTSA 2022b). Each manufacturer responded with information on side underride guard testing and development. The CBA Report and the ANPRM do not mention the survey or any of the responses. NHTSA gathered the best available information directly from the manufacturers and then left

	it out of the analysis. NHTSA used the manufacturers' responses to estimate that 2.45 million semitrailers would be subject to a side underride guard requirement, with roughly 245,000 produced each year, a figure close to the three-year industry average of about 211,000. The CBA Report did not use either estimate. It used an annual figure of 260,000, derived by applying a 70 percent in-scope share to Bureau of Transportation Statistics manufacturing data for 2015 through 2018 and growing the result to 2022, and did not use the current production data NHTSA had collected in its manufacturer survey. Annual production is the cohort the analysis spreads guard costs across, so inflating it increased total cost and drives net benefits downward. NHTSA solicited this information directly from the industry, received it, and chose to leave it out and used outdated numbers instead.
4. The CBA Report Excluded Crashes Involving More Than Two Vehicles	The CBA Report restricted its entire analysis to two-vehicle crashes. Side underride fatalities are not confined to two-vehicle crashes. In the Large Truck Crash Causation Study, of the 73 cases in which the most severe injury to a passenger vehicle occupant was due to side underride, roughly one quarter (n=18) involved more than two vehicles (Brumbelow 2012). IIHS cited the same finding in urging NHTSA to abandon the two-vehicle limit (IIHS 2023). The restriction is implemented in FARS through the VE_FORMS variable, set to two. The CBA Report applied this filter but did not disclose it. NHTSA offered no rationale for removing multi-vehicle side underrides from the target population, and a reviewer working from the CBA Report cannot identify the size of the excluded population without reconstructing the filter. The two-vehicle restriction is not the only undisclosed narrowing of the population.
5. The CBA Report Excluded All Crashes Above 40 MPH	In the CBA Report, NHTSA also excluded from its benefit estimates all crashes

occurring at impact speeds above 40 mph. NHTSA's technical review of the 184 PCR cases found only 19.9 percent of side underride fatalities at impact speeds of 40 mph or less, so NHTSA excluded roughly 80 percent of the fatality population from the benefit calculation (NHTSA 2024, footnote 8). NHTSA justified this exclusion by claiming in the CBA Report that it had no information on guard effectiveness above 40 mph and that any estimated benefits above that threshold would be "purely speculative."

The size of that exclusion is fixed by the formula in the CBA Report. NHTSA built its target population by multiplying the annual side underride fatalities (50) by the share at or below 40 mph (19.9 percent) by the underreporting factor (1.78), reaching 17.7 fatalities per year (CBA Report, Table 10). The 40-mph cutoff is the 19.9 percent term. Remove only that term, hold the fatality count and the underreporting factor as NHTSA set them, and the target population is 89 fatalities per year. The cutoff alone removes roughly 71 fatalities per year from the population the CBA Report counts. By the 4.6-to-1 ratio of serious injuries to fatalities the CBA Report uses, it removes roughly 328 serious injuries per year.

This is a statement about the population NHTSA excluded, not about effectiveness above 40 mph. Whether a guard would have prevented those fatalities is a separate question, addressed below.

The CBA Report ignored these studies and did not discuss guard effectiveness above 40 mph, acknowledging only in general terms that benefits could increase if side guards had protective effect above that threshold. Yet NHTSA acknowledged in the ANPRM that "side underride occurs predominantly at impact speeds above 40 mph" and that "protective effects above 40 mph could generate a large incremental improvement above the safety benefits estimated in this analysis." It then excluded precisely that population by claiming an absence of data it

	had possessed for years and collected in its PCR review. This is not an oversight or a gap in the record. NHTSA had the data, collected the data, and chose not to use it. The CBA Report cited NHTSA (2018) in its introduction as one of the studies NHTSA and other agencies had conducted on underride crashes (CBA Report, page 17). NHTSA (2018) states on its first page of research: "Past studies have looked at designing SUPDs for 90-degree impacts with passenger cars at speeds up to 50 mph (Bodapati 2006; Galipeau Belair 2014)." The CBA Report then set a 40-mph benefit cutoff and claimed no data existed on guard effectiveness above that threshold, a statement directly contradicted by the opening paragraph of NHTSA's commissioned research. NHTSA knew. It said otherwise.
6. The CBA Report Applied an Outdated Value of a Statistical Life	The CBA Report also applied an outdated Value of a Statistical Life. Published in March 2023, it used the 2020 VSL of \$11.6 million, though DOT guidance requires the VSL for the analysis base year. DOT publishes the schedule annually, and by March 2023 it already listed higher values for 2021 (\$11.8 million) and 2022 (\$12.5 million). NHTSA did not disclose or justify the choice to use an outdated VSL (U.S. Department of Transportation 2025). The gap has only widened since the current 2025 base-year VSL is \$14.2 million, so every year the CBA Report remains uncorrected the figure it used falls further below the value DOT guidance requires. This choice, like the VRU exclusion and the speed cutoff, contributed to the finding that costs outweigh benefits.
7. The CBA Report Was Not Subjected to Peer Review	Under OMB's Final Information Quality Bulletin for Peer Review (70 FR 2664, January 14, 2005), influential scientific information disseminated in support of regulatory action is subject to independent peer review before dissemination, by qualified experts outside the agency who have no

	stake in its conclusions. The obligation attaches to the information and its impact, not to the stage of the regulatory action. An advance notice is not exempt. Review by an agency's own staff, managers, or executives is not peer review, no matter what it is called. Neither the CBA Report, the ANPRM, nor the public docket contains a peer review plan, reviewer identities, reviewer comments, or agency responses to reviewer comments, the four things the Bulletin requires for influential scientific information. NHTSA did neither the review nor the certification explaining why one was not required.
8. The Underlying Data Were Not Made Publicly Available	The DOT Guidelines require that influential information be transparent, with the data and methods underlying a regulatory analysis available for independent verification. The CBA Report references an internal NHTSA study that formed part of its analytical foundation but was never released to the public or placed in the docket: • 1) A February 2020 NHTSA State Data Reporting System Division special review of FARS cases identified as possible underride or override cases, conducted as part of an evaluation of vehicle underride and associated fatalities in light vehicle crashes into the side of truck trailers (CBA Report, page B-2). The undercount had a documented cause in the FARS coding manual at the time. Under the 2020 FARS/CRSS Coding and Validation Manual, the manual governing the 2017 data the CBA Report used, two vehicles could not be coded as underride and override in the same collision, and the truck or trailer record was coded as no underride by rule (NHTSA 2022a). In the audit, the truck or trailer record was coded as no underride in 37 of 39 crashes (95 percent). NHTSA has since replaced that element. The 2021 FARS/CRSS Coding and Validation Manual retired the old data element and introduced a per-vehicle VEHICLE UNDERRIDE/OVERRIDE element, assessed for each vehicle in every vehicle-to-vehicle

	collision and coding the underriding vehicle as underride and the other as override, an element NHTSA states is intended to support rulemaking activities (NHTSA 2023a). The MMUCC Sixth Edition carries a matching element aligned to FARS. That change is prospective. It does not correct the 2017 records, and NHTSA's retention schedule does not provide for correcting them. The CBA Report was published in March 2023, after NHTSA had recognized the defect and revised the manual to support rulemaking, and it relied on data collected under the rule that guaranteed the undercount, without adjusting for it.
9. The CBA Report Misrepresented the Side Underride Guards Available and Crash Testing	NHTSA's representation that "only one third-party-tested side underride guard system is known to be available" (National Center for Statistics and Analysis 2023) is false. NHTSA cannot blame a lack of information. On January 10, 2022, Utility Trailer Manufacturing Company (2022a) responded to a NHTSA Information Request in a side underride guard defect petition (Docket DP21-004). That response described a side-impact guard Utility had crash-tested at 35 mph in both center and 30-percent overlap configurations on fully loaded trailers, in each case without passenger-compartment intrusion. Utility offered NHTSA the test data. Utility was selling the guard as an orderable option no later than 2021 (Utility Trailer Manufacturing Company 2022b, 2022c). Yet when the April 2023 CBA Report was published, NHTSA said nothing about the Utility guard, its crash tests, or its availability. In fact, NHTSA was provided these data prior to the CBA Report and then chose to ignore them (Utility Trailer Manufacturing Company 2022a). Stoughton also responded to a NHTSA Information Request in a side underride guard defect petition and included side impact guard test documentation, among it a 35 mph dynamic crash test conducted at an accredited laboratory and evaluated against passenger-compartment intrusion (Stoughton

	2022). T . . . The CBA Report discussed a Wabash National prototype and even drew on Wabash weight data in the analysis, but left out that Wabash had crash-tested the prototype successfully at 35 mph. . . Another surveyed manufacturer, Hyundai Translead, disclosed in its January 7, 2022 DP21-004 response that it was developing a prototype side underride guard scheduled for completion in the second quarter of 2022, . . . Leaving out these guards omits relevant data from the analysis. It makes side underride protection look less ready than it is. The Utility and Wabash guards are not the only omissions. SafetySkirt, a side underride guard developed by Aaron Kiefer of Collision Safety Consulting, was crash-tested against passenger-compartment intrusion years before the CBA Report. . . .
10. The CBA Report Omitted a Draft TTMA Recommended Practice NHTSA Solicited and Received	NHTSA solicited technical information from trailer manufacturers through its information request for the side underride guard defect petition (Docket DP21-004). In response, manufacturers submitted a draft Truck Trailer Manufacturers Association Recommended Practice for side impact guards, titled "Side Impact Guard," a 15-page document (Stoughton 2022, DP21-004). TTMA developed the draft, using Insurance Institute for Highway Safety crash test data, to set guidelines for the design, testing, and performance of side guards (Strick Trailers 2022, DP21-004; TTMA 2024). Neither the CBA Report nor the ANPRM mentions this draft Recommended Practice. The IIJA directs NHTSA to assess whether side guards are feasible. Industry had drafted a standard for them.
11. The CBA Report Relied on a 1991 Finding NHTSA Cannot Support	The CBA Report recycled a 1991 assertion the agency cannot document. In a 1991 regulatory evaluation of rear underride guards, NHTSA inserted a single sentence: "Combination truck side underride

	countermeasures have been determined not to be cost-effective." No data supported it. No analysis justified it. No cost estimates accompanied it. In June 2021, I requested the 1991 evaluation and its underlying data and analysis under the Freedom of Information Act. NHTSA confirmed it holds no records supporting the claim (NHTSA 2022c). The CBA Report repeated that unsupported sentence as established fact, an unsupported claim that became a recycled justification across three decades. Disseminating a finding with no basis in the record fails the objectivity and reproducibility the DOT Guidelines require. To correct this, NHTSA must remove the 1991 "not cost-effective" claim from the CBA Report.
12. The CBA Report Fails the Analytical Standard NHTSA Represents It Met	The deficiencies identified above are not only information quality violations. They are departures from the standard NHTSA represents it met. The agency has publicly stated that it conducted the analysis "according to Circular A-4," the federal guidance on how to conduct cost-benefit analyses. It cannot claim that standard while disregarding it. A-4 requires that results be reproducible by "a qualified third party" (OMB 2003, Transparency and Reproducibility of Results), which is impossible here because two internal studies were withheld, and a reviewer cannot reproduce what the agency will not disclose.
13. The Deficiencies Also Reflect a Failure of the Agency's Statutory Duty to Consider All Relevant Safety Information	When NHTSA prescribes a motor vehicle safety standard, Congress requires the agency to "consider all relevant, available motor vehicle safety information" (49 U.S.C. 30111(b)(1)). That statute does not permit the agency to weigh some of the relevant evidence and ignore the rest. An analysis that excludes a category of fatalities, withholds internal studies, and does not use the best available research cannot satisfy that duty, because the agency has not weighed the information. It has removed it. The courts have enforced this obligation, faulting an agency that failed to consider an important

	aspect of the problem in Motor Vehicle Manufacturers Association v. State Farm, 463 U.S. 29, 43 (1983), and faulting the agency for acting without adequate study in H & H Tire Co. v. DOT, 471 F.2d 350 (7th Cir. 1972). A benefits estimate built on omitted deaths and withheld studies is the kind of analysis courts have overruled.
This Request Is Not Stale	The DOT Guidelines permit dismissal as stale only if the information has no continuing significant impact on DOT projects or policy decisions. That condition is not met. The CBA Report has three ongoing uses: • it is the analytical foundation for the pending regulatory action at RIN 2127-AM54, economically significant in the 2026 Unified Agenda with comment analysis still ongoing nearly three years after the comment period closed on July 20, 2023; • it was the direct basis for the NHTSA (2024) Report to Congress; • and it remains the only published federal quantitative analysis of whether a side underride guard standard is cost-effective. NHTSA has stated it has no schedule to complete the action, so no corrected analysis is coming through the future rulemaking. So long as the regulatory action is open and the Report to Congress stands unrectified, the CBA Report has direct and continuing impact on agency action and congressional oversight. The request is not stale.
“How I Am Affected by the Error: I am an affected person under the DOT Guidelines on three independent grounds.”	
	First, I use NHTSA's CBA Report in my work. I authored a peer-reviewed cost-benefit analysis of side underride guard regulation (Hein 2026) that decides the same question and reaches the opposite result: net benefits positive under every scenario modeled. NHTSA's CBA Report is the only federal

	quantitative analysis of side underride guard cost-effectiveness. Its deficiencies reach every forum that cites the federal position. In my research, in submissions to NHTSA, FMCSA, and OIRA, and in public writing, I work against an analysis that understates the benefits and rebuild from the data what it should have stated. I also submitted a detailed ANPRM comment (Docket No. NHTSA-2023-0012) raising each deficiency in this request, so I have engaged this information in the public record.
	Second , I am a board member of the Institute for Safer Trucking, a nonprofit vehicle safety organization in Washington, D.C. The organization's work depends on accurate federal analysis of side underride crashes, and the uncorrected CBA Report impairs it.
	Third , I am harmed by the errors. My son Riley was killed in a side underride crash on November 13, 2015, at the age of sixteen. I use the roads as a driver, motorcyclist, pedestrian, and bicyclist, along with my family, friends, and colleagues. The risk is ongoing. Side underride crashes kills hundreds of people every year. Correcting the CBA Report would put an accurate accounting of what these crashes cost, and what protection is worth, before the agency, Congress, and the public.
Requested Corrections. "I request that NHTSA:"	
	(1) Subject the CBA Report to independent peer review by qualified experts outside NHTSA before relying on it further, reports to Congress, or other agency actions.
	(2) Release and place in the public docket the two internal NHTSA studies referenced in the CBA Report but not publicly available, to permit independent verification of the analytical assumptions.
	(3) Revise the CBA Report to establish a proper No-Action baseline consistent with Circular A-4 (OMB 2023), identifying the

	current annual societal cost of side underride crashes.
	(5) Revise the CBA Report to use the annual production and in-service fleet figures from NHTSA's 2021 manufacturer survey.
	(5) Revise the CBA Report to use the annual production and in-service fleet figures from NHTSA's 2021 manufacturer survey.
	(6) Remove the 1991 "not cost-effective" finding from the CBA Report.
	(7) Correct the CBA Report's statement that only one third-party-tested side underride guard is available, and account for the tested guards from Utility, Stoughton, Wabash, Hyundai Translead, and SafetySkirt disclosed to NHTSA before publication.
	(8) Acknowledge and address in the CBA Report the draft TTMA Recommended Practice for side impact guards that NHTSA solicited and received in Docket DP21-004.
The Department recently stated that its <i>"rulemaking activities are based on sound economic principles and analysis supported by rigorous cost-benefit requirements and data-driven decisions. Safety will continue to be the Department's top priority"</i> (91 FR 53028). The March 2023 side underride CBA Report excluded vulnerable road users, omitted multi-vehicle crashes, applied a 40 mph cutoff, relied on a stale value of statistical life, and never underwent peer review. It does not meet that standard.	