



120 Park Avenue, 21st Floor
New York, NY 10017
nacto@nacto.org

National Association of
City Transportation Officials

www.nacto.org

January 20, 2021

Corinne Kisner
Executive Director

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Acting Administrator
National Highway Traffic Safety Administration
US Department of Transportation
1200 New Jersey Avenue SE
Washington, DC 20590

Subject: Applicability of NHTSA FMVSS Test Procedures to Certifying Manufacturers
[Docket No. NHTSA-2020-0119]

Acting Administrator Owens,

On behalf of the National Association of City Transportation Officials (NACTO), we would like to offer the following response to the recent [Notice Regarding the Applicability of NHTSA FMVSS Test Procedures to Certifying Manufacturers](#). NACTO brings the collective expertise and experience of 86 major cities and transit agencies to inform an AV policy for improved safety, transparency, and mobility outcomes.

NACTO objects to the new interpretation of the Safety Act described in the recent [Notice Regarding the Applicability of NHTSA FMVSS Test Procedures to Certifying Manufacturers](#) because it creates a passive, unverifiable approach to the safety of autonomous driving systems. NHTSA's interpretation that a manufacturer may exercise "reasonable care" in determining whether a vehicle complies with standard performance requirements is insufficient. In order to verifiably ensure compliance, NHTSA must use its regulatory authority to update existing FMVSS and create testing procedures applicable to vehicles without traditional human controls. An unverifiable standard of "reasonable care" cannot reasonably protect public safety.

Automated driving technology has the potential to dramatically alter the future of transportation, particularly in cities. But, to ensure that this technology fulfills its promise to enhance safety, rather than jeopardize it, **NHTSA and USDOT must take a proactive approach to AV regulation**. This requires NHTSA to use its regulatory authority to update existing FMVSS and testing procedures to assess the capabilities of AVs, and make informed enforcement decisions.

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The impacts of AV technology on public streets will first be felt in cities. NACTO and our members are deeply invested in securing AV regulations that enhance safety in a comprehensive, transparent manner. We look forward to NHTSA's leadership in this important task.

Sincerely,

A handwritten signature in black ink, appearing to read 'Corinne', followed by a long horizontal flourish.

Corinne Kisner
Executive Director, NACTO