



November 29, 2021

The Honorable Steven Cliff
Acting Administrator
National Highway Traffic Safety Administration
1200 New Jersey Avenue, SE
Washington, DC 20590

Re: Agency Information Collection Activities; Proposals, Submissions, and Approvals: Incident Reporting for Automated Driving Systems and Level 2 Advanced Driver Assistance Systems, Docket No. NHTSA-2021-0070

Dear Acting Administrator Cliff,

The Association for Unmanned Vehicle Systems International (AUVSI) appreciates the opportunity to respond to the recent notice and request for comments on a request for extension of the currently approved information collection for incident reporting requirements for Automated Driving Systems (ADS) and Level 2 Advanced Driver Assistance Systems (ADAS).

AUVSI represents a broad swath of automated technology companies across the commercial and defense sectors. We are pleased to submit comments on behalf of member companies working in the ground vehicle automated goods movement industry.

In response to the request for comment specifically on the practical utility of this information collection, we would like to highlight serious concerns regarding the absence of contextual information requested in the various incident reports. The industry well understands the importance of collecting safety data on automated vehicles to further carry out NHTSA's mission of protecting roadway users, but actions required under the Standing General Order are concerning for several reasons.

In Requests 1-4, the requested data need to be refined to differentiate between preventable and non-preventable crashes, similar to established metrics in the FMCSA Crash Preventability Determination Program¹. If a crash is deemed not preventable, not only should that data not be included in any aggregated public reporting, but it also should not serve as a negative mark against the company in future regulatory actions.

¹ <https://www.fmcsa.dot.gov/safety/crash-preventability-determination-program-faqs>

We suggest NHTSA improve the forms used to collect incident data by including a section where companies can state if a crash was preventable. The most effective way to collect this information is to add a checkbox option to each form to indicate preventability. If a crash was not preventable, companies can check the checkbox, thereby removing any confusion as to who was at fault. Additionally, to ensure NHTSA is collecting an adequate amount of information about each incident, if a company checks the checkbox to indicate that an incident was not preventable, the form should require companies to fill out the “narrative” section to ensure all relevant details are being communicated to agency officials.

Allowing companies to differentiate between preventable and non-preventable crashes when reporting this information is critical. For instance, crash data for human-driven commercial motor vehicles clearly illustrates that 81% of fatal car-truck crashes are the fault of the car drivers². There is no reason to expect passenger vehicle drivers to drive any differently around automated trucks versus human-driven trucks, so it would be reasonable to expect a similar fault trend in crashes involving an automated truck. If that is the case, the incident report must provide space to include that context, and those additional details must be carried forth in aggregate analyses.

Without proper classification of data, there will be a “garbage in, garbage out” effect, leading agency officials and the public alike to muddle through incomplete information, potentially drawing incorrect conclusions about the safety status of the automated vehicle industry. Additionally, policymakers will be effectively handicapped in future legislative and regulatory processes without a complete picture.

A critical missing piece of the entire information collection request, both in the initial General Order and in this requested extension, is how the data will be used, and how will it be shared with the public or interested parties. It is clear that the Agency plans to share incident reports³, but the level of detail provided on how data sharing will be conducted is insufficient.

For instance, will the data be accessible via a searchable, filtered database similar to the Federal Elections Commission’s representation of campaign finance data⁴? When confidential business information (CBI) is included on submitted reports, what are the processes for anonymizing that information before release to the public? Will companies who include CBI be perceived in a negative light if their incident data is released to the public but omits proprietary information, whereas other companies might be able to provide every requested detail?

We also suggest that NHTSA include a CBI checkbox next to the “Driver/Operator Type” dropdown menu included in the incident report form. The diversity of companies engaged in

² <https://www.ccjdigital.com/business/article/14926879/80-percent-of-car-truck-crashes-caused-by-car-drivers-ata-report-says>

³ <https://www.nhtsa.gov/laws-regulations/standing-general-order-crash-reporting-levels-driving-automation-2-5>

⁴ <https://www.fec.gov/data/browse-data/?tab=filings>

automated vehicle testing and deployment is significant, and a company's choice to employ one type of operator over another does qualify as CBI under 49 C.F.R. § 512.3(c)(2)(ii)⁵.

The best path forward towards providing the public access to this information is to anonymize everything before release. Interested parties will still be able to draw conclusions about the safety of automated vehicles, but individual companies will not be left to fend for themselves against misleading safety claims based on cherry-picked data.

In fact, an example of this data mischaracterization has already been reported in reputable, mainstream outlets. On September 29th, 2021, *FreightWaves* published an article titled "Feds predict at least 200 automated vehicle crashes annually⁶." Taken on its own, 200 seems like a high number and would prejudice the public against supporting further testing and deployment of this technology. However, when comparing 200 against the 33,000+ Americans who died on our roadways in 2019, it is easy to understand that automated vehicles represent a huge leap forward for roadway safety. And since increasing safety is the cornerstone of the automated vehicle industry, these numbers make sense.

The author of this article cited 200 because that is the estimate NHTSA provided in its request for extension on the information collection when estimating reporting burden, but the 33,000+ number was not cited. That is understandable given the context of the information request, but the *FreightWaves* article is an example of how easy it will be for even informed members of the public to cherry-pick data and negatively impact consumer confidence around this technology.

A more nuanced report was issued recently regarding the cited California disengagement numbers, and it correctly analyzed that "from 187 reports, only 2 incidents could be attributed to the poor performance of the autonomous system. That means a staggering 99% of crashes involving autonomous vehicles are caused by human error.⁷" This is information that the public must be made aware of when data collected under the Standing General Order is released. Not doing so only disadvantages the general population from taking advantage of the numerous safety benefits automated vehicles will continue to bring to American roads.

AUVSI also disagrees with NHTSA's use of California disengagement report statistics as the basis for estimating the reporting burden placed on companies. It is inaccurate to assume that half of all automated vehicle testing occurs in California, because the state does not allow all automated vehicles to be tested. California regulators have not moved forward with a rulemaking to permit companies to test automated commercial motor vehicles, yet those very companies are well-represented in the list of 108 entities required to comply with this information request.

Finally, NHTSA should end the monthly requirement that companies submit an incident report confirming the lack of any reportable information. The compliance burden of the Standing

⁵ <https://www.ecfr.gov/current/title-49/subtitle-B/chapter-V/part-512>

⁶ <https://www.freightwaves.com/news/feds-predict-at-least-200-automated-vehicle-crashes-annually>

⁷ <https://www.idtechex.com/en/research-article/the-biggest-challenge-for-autonomous-vehicles/25011>

General Order is significant and there is nothing to be gained by requiring companies to confirm that their technologies were not engaged in any reportable incidents. However, if NHTSA does not see fit to rescind Request 4, clarifying language should be added to delineate between incident-free automated vehicle operation on a publicly accessible roads and on private roads. That distinction is included in Requests 1-3 but not in Request 4 and that oversight should be corrected to accurately reflect NHTSA's jurisdiction.

AUVSI appreciates the opportunity to weigh in at this critical stage in automated vehicle regulation and policy and urges NHTSA to carefully consider the recommendations and critiques offered in this comment. The Association will continue to proactively engage with agency officials on behalf of our member companies and looks forward to serving as a trusted industry resource.

Sincerely,

Michael Robbins – Executive Vice President of Advocacy
Association for Unmanned Vehicle Systems International