

Dr. Steven Cliff  
Deputy Administrator  
National Highway Traffic Safety Administration  
West Building, Ground Floor, Room W12-140  
1200 New Jersey Avenue, S.E.  
Washington, D.C. 20590

RE: Tesla's Comments in Response to Agency Information Collection Activities; Notice and Request for Comment; Incident Reporting for Automated Driving Systems (ADS) and Level 2 Advanced Driver Assistance Systems (ADAS), Docket No. NHTSA-2021-0070

Dear Deputy Administrator Cliff,

Tesla, Inc., is pleased to submit written comments to the National Highway Traffic Safety Administration ("NHTSA" or the "Agency") in response to the Agency's September 30, 2021 notice and request for comment regarding Agency Information Collection Activities; Notice and Request for Comment; Incident Reporting for Automated Driving Systems (ADS) and Level 2 Advanced Driver Assistance Systems (ADAS). We appreciate the opportunity to comment on the ways in which the Agency could enhance the quality, utility, and clarity of the information being collected under NHTSA's Standing General Order 2021-01, as well as ways to minimize the burden of this collection.

First, to minimize the burden, we encourage the Agency to explore methods to further digitize the process and eliminate manual steps, especially since the Agency is seeking to extend this collection for at least the next three years. For example, the Agency could utilize an Application Programming Interface (API) for reporting, which could allow manufacturers to automate much of their submission processes and decrease the potential for manual processing errors.

Similarly, the Agency could greatly reduce the burden of this collection by eliminating or altering the current confidential business information submission process. Currently, manufacturers are required to print two copies of each report (a public redacted version and a confidential version), prepare a confidentiality request letter and certificate, and then email all of these documents to NHTSA Chief Counsel's Office. This process must be done separately for each report. So, for example, if a manufacturer had five reports to make on a given day, it must print both a public and confidential copy of each of the five reports, prepare five separate request letters and certificates, and send five separate emails. Instead of separate requests for each report, the Agency should consider either allowing manufacturers to bundle reports (preferably on a weekly or monthly basis) and submit them with one

request, or the Agency should explore whether an electronic form could be submitted through the portal at the same time the report is submitted, especially since the form already includes tags for confidential business information and includes the ability to print a redacted copy. This is another area where an API could streamline the process, eliminate redundant manual processing steps, and reduce the burden of the information collection.

Further, the Agency could both minimize the burden and enhance the quality and utility of the information collected if it extended the 1-day reporting deadline to 5 days. Such a deadline is consistent with other reporting requirements under the National Traffic and Motor Vehicle Safety Act, 49 U.S.C. 30101, et seq. For example, manufacturers are currently required to notify NHTSA of defect and noncompliance determinations within 5 business days. It is also consistent with other standing orders issued by the Agency. For example, Standing General Order 2015-01A requires reporting of incidents involving a ruptured Takata airbag inflator within 5 business days.<sup>1</sup> Thus, at least in other contexts, the Agency has seemingly recognized that 5 days is a reasonable timeframe for information collection.

A relatively short extension of the deadline to 5 days is also likely to increase the quality and utility of the information collected. Indeed, there may be times when very little is known about an alleged incident within 1 day, but the facts may become more fully understood after a few days of investigation. By briefly expanding the time in which to provide the initial report, the Agency may receive more fulsome information at the outset. Moreover, the Standing General Order's definition of "notice" is very broad and requires reporting based upon mere allegations, without regard to whether the manufacturer has verified (or disproved) the facts. Because of this broad definition, manufacturers are likely to report incidents that may quickly turn out to be disproved and are therefore irrelevant to the stated purpose of the information collection. Where allegations can be easily disproved within a few days (e.g., through vehicle data that demonstrates the ADAS was not engaged leading up to the incident), the Agency would be saved from expending unnecessary resources to track, review, or follow up on irrelevant incidents in exchange for waiting a few days for the report to be submitted.<sup>2</sup>

In addition to extending the deadline, the Agency should consider replacing the 1- and 10-day reports with an initial, supplemental/amended, and/or final report. In our experience, there have been occasions where we are able to provide all relevant information in the initial report, so the 10-day report becomes an unnecessary administrative burden. Allowing the initial report to be submitted as "final" would alleviate that burden. Moreover, allowing for a report to be deemed "final" will notify the Agency that the

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<sup>1</sup> The reporting deadline for Takata inflator rupture reporting was originally twenty-four hours but was quickly extended to 5 business days after feedback from industry, which suggests a recognition by the Agency that twenty-four hours (or 1 day) is unduly burdensome. *Compare* Standing General Order 2015-01 with Standing General Order 2015-01A.

<sup>2</sup> Further, if the Agency does not intend to review the 1-day reports, conduct follow-up based on those reports, or otherwise respond to them, then such reports may not be necessary for "the proper performance of the functions of the Department."

manufacturer has concluded its review of the incident and does not intend to investigate further, at which point the Agency could more efficiently determine whether to conduct follow-up or conclude its review of the incident without further action.

Finally, the Agency has requested comment on whether the proposed collection is necessary. While we fully recognize the underlying goal of the collection, it is difficult to comment on whether this particular method of collection is necessary because the Agency has not detailed how it will use the information to evaluate whether manufacturers “are meeting their statutory obligations to ensure that their vehicles and equipment are free of defects that pose an unreasonable risk to motor vehicle safety” or how it will otherwise use the information contained in the reports. (This is especially true for incidents alleging ADAS involvement, as NHTSA already collects similar information through its Vehicle Owner Questionnaires (VOQs) and ad hoc information requests about specific incidents.) We would encourage the Agency to be more transparent in this regard, especially given that follow-on activities may impose additional burdens that have not been captured in the burden analysis even though those activities are an extension of this information collection.

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NHTSA estimates that more than 38,000 people died in motor vehicle traffic crashes in 2020, and early estimates in 2021 show that the rate has reached crisis levels with fatalities up 18.4%.<sup>3</sup> ADS and ADAS hold the potential to reduce the frequency and severity of traffic crashes and save thousands of lives each year.<sup>4</sup> To that end, Tesla appreciates the thoughtful balance the Agency will bring to this information collection.

If NHTSA has any questions or comments regarding this submission, please feel free to contact me at [egates@tesla.com](mailto:egates@tesla.com).

Sincerely,



Eddie Gates  
Director, Field Quality

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<sup>3</sup> <https://www.nhtsa.gov/press-releases/usdot-releases-new-data-showing-road-fatalities-spiked-first-half-2021>

<sup>4</sup> For example, as reported in our Quarterly Safety Report for the second quarter of 2021 (the most recent data available), we recorded one crash for every 4.41 million miles driven in which drivers were using Autopilot technology. By comparison, NHTSA’s most recent data shows that in the United States there is an automobile crash every 484,000 miles.