

Congress of the United States

Washington, DC 20515

April 11, 2024

Sophie Shulman
Deputy Administrator
National Highway Traffic Safety Administration
1200 New Jersey Avenue SE
Washington, D.C. 20590

Dear Deputy Administrator Shulman,

We write to you today with concerns that the National Highway Traffic Safety Administration (NHTSA) has declined to improve existing data reporting requirements on autonomous vehicle (AV) companies. We believe NHTSA's inaction hamstringing policymakers who are dealing with AV issues on the ground, threatens the safety of pedestrians, human drivers and first responders, and jeopardizes the general public trust needed for widespread adoption of this potentially transformative technology. We urge you to reconsider.

To be clear, we are champions of innovation and are excited by the major strides that AVs have made in recent years. We believe that AV technology has the potential to revolutionize motor vehicle safety and lead to a steep decline in traffic deaths. Around 40,000 people die in traffic accidents each year¹ and millions more are injured.² We should seek to rapidly decrease the number of these deaths with innovative, American-made technology.

Official, transparent, comparable, and nationwide data are critical to ensuring AVs are deployed safely. Some companies have voluntarily released selective data on a sporadic basis, but this is not a substitute for standardized data and mandatory reporting, without which state and local policymakers have only anecdotes and the data they collect themselves in their jurisdictions. This data is essential for cities and local jurisdictions to make informed decisions about how they work with AV companies for safe deployments. This data gap is detrimental to both the American public and companies who seek broader adoption of their services by consumers.

A September 2023 congressional letter addressed to then-Acting Administrator Carlson raised serious safety concerns about the lack of data collected by the Federal government with respect to AVs. The letter respectfully asked NHTSA to improve its data collection requirements so that policymakers and regulators have the information they need to keep our constituents safe and minimize disruptions to their daily lives. Moreover, official data on their safety record could eventually improve confidence in the safety of AVs.

¹ National Highway Traffic Safety Administration, "Early Estimate of Motor Vehicle Traffic Fatalities for the First 9 Months (January–September) of 2023," December 2023, <https://crashstats.nhtsa.dot.gov/Api/Public/ViewPublication/813530>.

² National Highway Traffic Safety Administration, "Summary of Motor Vehicle Traffic Crashes," October 2023, <https://crashstats.nhtsa.dot.gov/Api/Public/ViewPublication/813515>.

NHTSA's response to this letter and subsequent staff-level call made clear the agency does not have plans to require additional safety data from manufacturers. As part of its rationale, the agency cited that its use of third-party data, including social media posts, to supplement data from AV companies. While this type of information may be helpful to investigate incidents after the fact, we are troubled by NHTSA's reliance on informal, third-party sources of data, which are not a substitute for official data from the companies themselves.

AVs have been operating on the streets of San Francisco, California, Austin, Texas, and elsewhere around the country for more than a year and are expanding their footprint even as challenges remain in addressing complex real-world situations, such as navigating road work zones and reacting to emergencies in the right of way. On March 1, 2024, the California Public Utilities Commission approved the expansion of AV operations by one company to large portions of Los Angeles County and the San Francisco Peninsula.³ The City of South San Francisco, the County of San Mateo, the Los Angeles Department of Transportation, and the San Francisco County Transportation Authority all raised concerns with this decision, specifically citing, among other things, a lack of standardized data to be able to evaluate the safety of the technology.

While NHTSA's Standing General Order (SGO)⁴ requires AV companies to report crash information to the agency, there are several limitations to this data, particularly with respect to incidents that do not end in a "crash" but pose other safety risks. In San Francisco, AVs have frequently shut down in place, obstructing public transit, blocking intersections and the normal flow of traffic, and preventing first responders from reaching people in need. However, NHTSA does not require companies to report such situations or their potential effects, which can and do contribute to "deaths and injuries resulting from traffic accidents."⁵ Moreover, companies are not currently required to share how many of the size of their fleet, the area they operate in, or the miles traveled,⁶ making it impossible to compare safety records among companies or with manually-operated vehicles.

We understand that NHTSA plans to issue a rule⁷ establishing a voluntary framework ("ADS-equipped Vehicle Safety, Transparency and Evaluation Program" or AV STEP) in which AV manufacturers could deploy vehicles that do not comply with current vehicle standards in exchange for providing the agency with more data. While such a voluntary approach could be viable in an environment where AV companies were incentivized to participate, they have already been operating vehicles without the need for the exemptions envisioned under this proposed program and they are unlikely to need them in the near future. Indeed, companies have recently announced expansions in other states without needing an exemption. Thus, a voluntary program so designed is insufficient to address the need for more data at this time.

³ California Public Utilities Commission, Status of Advice Letter 0002 as of March 1, 2024.

⁴ Standing General Order 2021-01, Second Amended, April 5, 2023.

⁵ 49 U.S.C. § 30101.

⁶ National Highway Traffic Safety Administration, "Summary Report: Standing General Order on Crash Reporting for Automated Driving Systems," Department of Transportation, June 2022, <https://www.nhtsa.gov/sites/nhtsa.gov/files/2022-06/ADS-SGO-Report-June-2022.pdf>.

⁷ RIN 2127-AM60, originally scheduled for October 2023, although no proposed rule has yet to be promulgated.

Therefore, we urge you to reconsider the agency's position. Specifically, we ask that you require AV companies to report, at a minimum, the following information and make it available to the public:

1. Vehicle miles traveled: NHTSA should require companies to report how many driverless miles their AVs have traveled in a jurisdiction in a standardized way to normalize crash, obstruction, injury, and fatality rates to be able to compare them with manually-operated vehicles and to identify trends over time. While there may be proprietary and/or confidential business information interests involved, this should not stop NHTSA from collecting data and publicly reporting on it in a manner that does not jeopardize companies' business interests. The collection of some similar data about passenger service by the California Public Utilities Commission⁸ demonstrates that this is feasible. While data can be appropriately anonymized to protect individuals' privacy, the location of where AVs are traveling (and where incidents are occurring) is also important to be able to assess their performance in different environments and road conditions.
2. Number of vehicles on the road: NHTSA should require companies to report on how many AVs they have operating in each area or jurisdiction. While vehicle miles traveled is useful for evaluating rates of incidents per travel, data on the total number of vehicles could establish an incident rate per vehicle metric to help policymakers understand the reliability of a fleet.
3. Non-collision incidents resulting in obstruction and other anomalies: NHTSA should require companies to report incidents that result in the obstruction of streets, non-passenger-vehicle lanes, or intersections, the interruption of traffic flow, and other anomalous incidents that jeopardize safety for passengers, company employees and contractors, first responders, pedestrians, bystanders, passengers on mass transit, other drivers, or other downstream individuals affected by the operation of the AV(s) involved. NHTSA should also require AV companies to share data about interactions they have with law enforcement, fire, and EMS personnel in the right of way. This data would help cities and local jurisdictions work with AV companies on safe deployment procedures.
4. Near misses: NHTSA should require information from companies about when, where, and how often their vehicles have near misses with other vehicles and pedestrians. Companies continuously collect telematics with onboard sensors and capture this information on a detailed level. Even when such incidents do not result in an injury or fatality – including sudden braking – this information can help to provide a more holistic picture of vehicle safety trends.

As NHTSA itself has acknowledged, the agency has the authority to collect more data from AV companies. Given the clear and present safety questions outstanding, we believe it also has a mandate to do so.

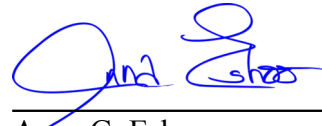
On behalf of our constituents, thank you for your attention to this matter and we look forward to your prompt reply.

⁸ California Public Utilities Commission, Decision 18-05-043, May 31, 2018, <https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M215/K279/215279920.PDF>.

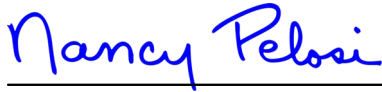
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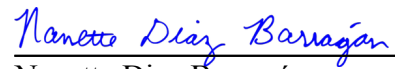
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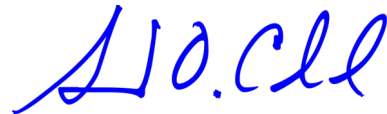
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