



---

**Comments of the  
Motor & Equipment Manufacturers Association  
to the  
National Highway Traffic Safety Administration  
U.S. Department of Transportation**

**RE: Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Incident Reporting for Automated Driving Systems (ADS) and Level 2 Advanced Driver Assistance Systems (ADAS)**

**Docket No. NHTSA-2021-0070; OMB Control No. 2127-0754**

**January 28, 2022**

---

## **Introduction**

The Motor & Equipment Manufacturers Association (MEMA) submits these comments to the National Highway Traffic Safety Administration (NHTSA) of the U.S. Department of Transportation (DOT) on its notice of submission to the Office of Management and Budget (OMB) to renew a previously approved collection of information,<sup>1</sup> per the December 29, 2021 *Federal Register* notice.<sup>2</sup> Specifically, this information collection references the NHTSA Standing General Order 2021-01 (Order), as amended, which requires the entities served with the Order to report incidents involving vehicles with automated driving systems (ADS) and Level 2 advanced driver assistance systems (ADAS).<sup>3</sup>

MEMA submitted comments to NHTSA on November 29, 2021, expressing several concerns with the procedural and substantive elements of the Order and the information being collected.<sup>4</sup> Although NHTSA did provide detailed responses in its December notice reacting to stakeholders' feedback, MEMA is revisiting a few critical points for the agency's review and reconsideration. Left unresolved, these issues may negatively impact the quality, utility, and clarity of the information being collected.

## **Notification Timing and Reporting**

MEMA appreciates NHTSA's flexibility and decision to amend the reporting criteria to a single report within five calendar days for crashes that do not involve a fatality, injury, or a vulnerable road user, but do involve an air bag deployment or a vehicle tow-away. At the same time, MEMA is

---

<sup>1</sup> On June 29, 2021, the Office of Information and Regulatory Affairs (OIRA) at OMB received an emergency request for approval of a new collection of information from NHTSA. On June 30, 2021, OIRA granted a six-month approval to collect the information, enabling implementation of the Order and collecting the information required under it.

<sup>2</sup> 86 Fed Reg at 74217.

<sup>3</sup> "Incident Reporting for Automated Driving Systems (ADS) and Level 2 Advanced Driver Assistance Systems (ADAS)," NHTSA Standing General Order 2021-01, issued June 29, 2021, amended August 5, 2021.

<sup>4</sup> MEMA Comments at Docket ID No. NHTSA-2021-0070-0011.

still concerned about the overall timing and reporting challenges, particularly considering the points raised in our November 29, 2021, comments. Aside from their own prototypes and/or test vehicle fleet operations, a vehicle supplier does not typically have access to vehicle incidents, much less timely access. NHTSA even acknowledges this point in its response, saying: “The agency expects that it would be extremely rare for any vehicle supplier to receive such notice unless it was significantly involved in developing, testing, or supplying an ADS or Level 2 ADAS, in which case the agency believes that the reporting requirement is appropriate.”<sup>5</sup> Nevertheless, in the event a vehicle supplier does receive notification of an incident, MEMA remains concerned that there may be multiple reporting entities and duplicative reporting where a vehicle manufacturer and one or more equipment suppliers are obligated under the Order to report on the same incident.

MEMA continues to urge NHTSA to reconsider our recommendation that equipment manufacturers (i.e., vehicle suppliers) be exempted from reporting in cases where the vehicle manufacturer has, or should have, reported an incident. Support for MEMA’s position is found under current reporting obligations (49 CFR Part 573) where only the vehicle or equipment manufacturer must report certain recalls or defects – but not both. Similarly, in the event a vehicle supplier does not have any incidents to report, MEMA urges NHTSA to revisit our concerns about filing “no incident” reports. Support for MEMA’s position is also found under current reporting obligations (49 CFR Part 579). Lastly, MEMA notes that NHTSA’s amendment to the Order does not remove the burden for vehicle suppliers to have staff available seven calendar days each week (including weekends/holidays) in order to assess if there are any incident reports and, if so, to determine if it meets the one-day reporting requirement or the five-day reporting requirement. MEMA asks that NHTSA reconsider this aspect of its response as well.

### **Clarification of Terms and Unique Burdens for Vehicle Suppliers**

NHTSA expressed disagreement with stakeholders input from not only MEMA, but also the Alliance for Automotive Innovation. Both organizations argued that the Order’s reporting requirements place unique and excessive burdens on vehicle suppliers. To be clear, MEMA’s previous comments asked the agency to explain certain definitions of terms and phrases expressed in NHTSA’s Order so that the information collected has “quality, utility, and clarity.” MEMA further asked that NHTSA clarify the broad scope of the terms used to enhance the practical utility of the information and minimize the burden on the reporting entities – particularly, vehicle suppliers.

Specifically, MEMA urged NHTSA to clarify the scope of “motor vehicle equipment” vis-à-vis the Order, the definition for which is (emphasis added): “any pre-production, prototype, or production ADS or Level 2 ADAS, including software or any other component of such system, that is installed on a motor vehicle or used to control or operate a motor vehicle.” NHTSA responded that our request to change the definition would eliminate aftermarket systems from the scope of the Order. MEMA believes there is a misunderstanding in the intent of our request for clarification. We do not propose to eliminate any systems. Rather, MEMA is seeking a clearer interpretation on this matter because of the complexity of these systems (and components that create these systems), as well as the multitudes of components connected to and activated by these systems. MEMA re-emphasizes that there is no “off-the-shelf” ADS or Level 2 ADAS system. The components of such systems are not clearly defined in existing taxonomy, such as the SAE Standard J3016 “Levels of Driving Automation.” Indeed, the “components” of such a system could be interpreted to mean every single

---

<sup>5</sup> 86 Fed Reg at 74224.

part on the vehicle that interacts with the Level 2 ADAS functionality or ADS functionality in any way. NHTSA has clearly stated that it can and will utilize its enforcement authority to ensure compliance with the Order. It is, therefore, vitally important that the reporting entities be given a more clear and precise definition of “motor vehicle equipment” to assist with proper compliance.

As previously explained, for those companies that do manufacture equipment for Level 2 ADAS and ADS, the phrase “or any other component of such system” is so broad that, in and of itself, it could potentially encompass hundreds of parts. Even those companies who were served the Order, but do not manufacture equipment for Level 2 ADAS or ADS, are still required to submit monthly “no incident” reports. Both of these circumstances create unnecessary and undue burdens for the suppliers involved. There is a burden not only in the tracking, training, and management of actual incident reports, across a wide variety of components, but also in the assessment and management of “no incident” reports. Similarly, these resource inputs should not be discounted or de-valued in the overall burden estimate. These burdens are a challenge for vehicle suppliers of all sizes – from large multinational organizations to small- and medium-sized entities. MEMA is not arguing that the actual submission of the forms and reports online are time consuming, but rather that all the tasks leading up to the report itself constitute a significant part of the overall reporting burden.

Lastly, MEMA does not agree with the agency’s justification and obligation that a “no incident” report from the reporting entities “provides an important reminder of the continuing obligation to report crashes.”<sup>6</sup> Essentially, NHTSA will accrue very little valuable or timely information from the supply base through such reports, all while imposing this significant burden. Therefore, MEMA urges NHTSA to please reconsider amending the Order to clarify and narrow the scope of impacted equipment for all reporting entities. Additionally, MEMA urges NHTSA to eliminate no-incident reports, as there is no authority or sufficient justification to impart the resource burden for companies to submit this “lack of information” on a monthly basis.

### **Burden Assessments**

Regarding the agency’s assessment related to company training on this subject, NHTSA suggested such training is a single occurrence, stating that the “reporting entities named in the General Order will not incur this [training] burden during the requested extension because they have already trained their employees.”<sup>7</sup> MEMA disagrees with this assessment. It is a mistake to presume that companies would only need to conduct training on the Order one time. The agency’s assumption does not account for the fact that staff changes will impact the frequency of training on a given subject (whether by virtue of turnover, new on-boarding, or positional duty changes). Nor does it account for the training required to apprise staff of any future amendments to the Order. MEMA urges NHTSA to revisit its assessment of the amount of training needed to support the reporting requirements under this Order. For vehicle suppliers, it is most certainly not a one-time training exercise to ensure sure every relevant employee – particularly for large, complex organizations – has the knowledge necessary to guarantee that any known incidents are timely reported to the correct individuals. Further, many companies conduct annual trainings on key compliance topics. Therefore, even if a staff member has been through a training program – it is likely that the individual would be required to take the training module again.

---

<sup>6</sup> 86 Fed. Reg. at 74222.

<sup>7</sup> 86 Fed Reg at 74229.

Lastly, NHTSA indicated that few reports have been submitted in the “five months since the General Order was first issued.”<sup>8</sup> MEMA notes, while that may presently be the case, it is probably not the best comparison on which to base the overall burden assessment. In terms of the approximately 280 million vehicles on the road, those vehicles with Level 2 ADAS are a very small sliver of that overall fraction. Of that fraction, ADS-equipped vehicles testing on public roads today are currently so small as to be infinitesimal. The five-months’ of reporting to date reflect that situation. Over time, those levels are certain to increase, as will the reporting burden – which is why the time to make clarifications is now. The more certain the reporting entities are about the definition and scope of key terms, the higher the information quality, utility, and clarity will be.

### **Conclusion**

MEMA shares and supports NHTSA’s goals to prevent and reduce crashes, fatalities, and injuries and to ensure the safe implementation and development of new and emerging vehicle technologies. MEMA urges NHTSA to reconsider making further amendments to its Order to improve the quality, utility, and clarity of the information being collected. If these elements of the Order can be improved, it would make the reporting more feasible for vehicle suppliers and more valuable for the agency. For more information, please contact Ann Wilson, senior vice president of government affairs, at [awilson@mema.org](mailto:awilson@mema.org) or Leigh Merino, vice president of regulatory affairs at [lmerino@mema.org](mailto:lmerino@mema.org).

# # #

---

<sup>8</sup> 86 Fed. Reg. at 74224.