Transportation Trades Department, AFL-CIO

March 17, 2025

The Honorable Jack Danielson
Acting Administrator
National Highway Traffic Safety Administration
1200 New Jersey Avenue, SE
Washington, D.C. 20590

RE: ADS-Equipped Vehicle Safety, Transparency, and Evaluation Program
Docket No. NHTSA-2024-0100

Mr. Danielson,

On behalf of the Transportation Trades Department, AFL-CIO (TTD), I am pleased to respond to the National Highway Traffic Safety Administration's (NHTSA) notice of proposed rulemaking (NPRM) regarding the Automated Driving System (ADS)-Equipped Vehicle Safety, Transparency, and Evaluation Program (AV STEP). TTD consists of 37 affiliated unions representing workers across the transportation sector, including public transit operators, freight rail workers, and first responders.[1] A number of the elements contained in this NPRM raise serious safety and regulatory concerns, and as such we strongly urge the NHTSA to take our feedback into consideration. In addition to our own comments, we endorse the comments filed in this docket by our affiliate, the Transport Workers Union of America (TWU).

According to the NHTSA's notice, the agency proposes a voluntary framework for the evaluation and oversight of motor vehicles equipped with ADS. Specifically, the AV STEP would establish a national program for ADS-equipped vehicles that operate or may operate on public roads in the United States under NHTSA's oversight. The goal of the program is to improve public transparency related to the safety of certain ADS-equipped vehicles, while allowing for responsible development of this technology. As proposed, the program would be structured around two levels of participation: Step 1 and Step 2. Generally, Step 1 would apply to vehicles that rely on fallback personnel and Step 2 would apply to vehicles that do not rely on fallback personnel.

A foundational concern underpinning our apprehension towards the AV STEP program lies in NHTSA's own acknowledgment that 'data, methods, and metrics to support [safety] standards do not yet exist.' This admission from the regulatory agency itself highlights the inherent risks associated with a voluntary framework for the deployment of automated driving systems. In the

[1] Attached is a complete list of the unions affiliated with TTD.

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absence of established and objective criteria for assessing the safety of these technologies, placing significant reliance on manufacturers' self-defined metrics and voluntary participation is particularly problematic. It begs the question of how 'responsible development' can be genuinely ensured when the very benchmarks for safety are still known to be lacking. This acknowledged gap in the scientific foundation for AV safety underscores the urgent need for mandatory, federally enforceable standards, rather than a voluntary program that essentially asks manufacturers to self-regulate in a safety landscape that remains largely undefined.

We do, however, appreciate the NPRM's inclusion of requirements for operational control. These requirements will help to ensure program applicants are liable for operational failures. We urge NHTSA to maintain and enforce these requirements in its final rule. We also recognize the importance of the proposed limitations around Operational Design Domain (ODD) in AV STEP. Again, these limitations must be maintained and enforced in the final rule in order to accurately limit where and when AVs are operating and interacting with current technology.

Perceived endorsement of safety

Despite NHTSA's claims in the NPRM, acceptance into AV STEP is clearly framed as an endorsement of the safety of these vehicles. NHTSA asserts, "Acceptance into the program would not be an assurance of safety, a validation of the ADS technology, or a guarantee that the applicant will execute its operational oversight functions as described." Yet, the agency also requires applicants to submit evidence showing the necessary technical, operational, and management resources are in place to mitigate safety concerns prior to their acceptance into the program. Allowing unproven and undertested technology to operate virtually unchecked on our roads by virtue of its acceptance into AV STEP is an inherent endorsement of the safety of these systems. This concern is amplified by NHTSA's own acknowledgment that "the benefits of ADS remain still largely unproven." If the purported safety advantages of ADS technology have yet to be definitively established, then any regulatory framework that lends an air of official approval to the safety of participating vehicles is premature and potentially misleading to the public. The NPRM is a clear indication that NHTSA is motivated to foster the technological development of ADS technologies without assuming responsibility for the safety risks associated with their widespread testing and adoption. A truly responsible approach necessitates a cautious and evidence-based regulatory framework that prioritizes demonstrated safety through mandatory standards and rigorous oversight before any implicit or explicit endorsements are given.

The National Transportation Safety Board (NTSB) sent a letter to NHTSA on February 1, 2021, in response to NHTSA's ANPRM titled "Framework for Automated Driving System Safety," expressing key safety principles and concerns based on their investigations of crashes involving vehicles equipped with various levels of automation. AV STEP has ignored many of the educated and common-sense recommendations provided by the NTSB for the development and testing of autonomous vehicles. This is particularly troubling given the absence of rigorous, independently verified safety assessments and enforceable standards within AV STEP. TTD argues that it is

irresponsible to seemingly endorse the safety of a technology whose benefits are unproven, especially when this perceived endorsement could lead to a relaxation of caution by the public or policymakers. We strongly encourage NHTSA to thoughtfully consider and incorporate the NTSB's safety regulations delineated in the 2021 letter into any framework governing the testing and rollout of AVs, including AV STEP.

Worker Safety

Noticeably absent from NHTSA's safety assurances is a mention of safety oversight with regard to worker protections. The NPRM fails to include any mandatory safety requirements or protocols for protecting workers impacted by ADS deployment. Without explicit worker protection measures, the introduction of ADS could create hazardous working conditions, especially in scenarios where human workers are required to interact with autonomous vehicles in various capacities. The absence of clear safety requirements leaves workers vulnerable to increased safety risks, including accidents caused by unpredictable ADS behavior and inadequate training on how to interact with autonomous vehicles. Furthermore, without mandated safety protocols, there is no assurance that companies deploying ADS will prioritize worker safety or establish comprehensive guidelines for how human workers should engage with these systems.

The AV STEP program's establishment of a two-tier system – Step 1 for vehicles with fallback personnel and Step 2 for those without – presents distinct yet equally concerning implications for worker safety that require specific consideration. In Step 1 operations, while a human operator is present, their role and responsibilities within the context of an active ADS are often novel and ill-defined. This raises critical questions about the adequacy of training protocols and regulatory oversight for these fallback personnel, who may be expected to intervene in unpredictable situations without clear guidelines or established best practices. Furthermore, the potential for over-reliance on these individuals or the introduction of new forms of cognitive burden must be thoroughly evaluated and addressed through mandatory safety protocols.

Step 2, involving the deployment of driverless vehicles, introduces an entirely different set of challenges for transportation workers, including first responders, maintenance personnel, and roadside assistance providers. Interactions with these vehicles in emergency scenarios, operational incidents, or during routine maintenance will necessitate new safety procedures and training, none of which are mandated or even guided by the proposed AV STEP program. The absence of comprehensive, enforceable standards that explicitly address the differentiated risks and worker protection needs within both Step 1 and Step 2 of AV STEP leaves transportation workers vulnerable to potential hazards associated with these novel technologies.

It is important to note that NHTSA does not exclude any particular type of operation from potentially joining AV STEP, which could result in public transportation operations participating in the program. We must strongly emphasize the extreme limitations of a shift toward driverless operations in the public transportation space. The unpredictable and often volatile nature of the

operating environment unequivocally demands trained, licensed, and skilled human operators to navigate road and on-board incidents and emergencies. Given these concerns, it is imperative that NHTSA addresses this gap by incorporating specific worker protection requirements into its framework.

Lack of enforcement mechanisms

The AV STEP framework lacks clear and robust enforcement mechanisms, raising significant concerns about accountability and safety. The NPRM proclaims the program's aim to protect the public while enabling "responsible development" of automated driving systems. However, this stated goal is completely undermined by the critical fact that the program provides no specific enforcement mechanisms. This inherent contradiction raises serious doubts about the program's ability to genuinely ensure responsible development.

While participation in AV STEP is voluntary, and certain reporting requirements are proposed, the absence of concrete mechanisms to enforce safety standards, address non-compliance, or mandate corrective actions creates a framework where the pursuit of rapid technological deployment could easily overshadow genuine safety considerations and worker protection. The proposal does not directly address how enforcement will function or how existing defect and investigation authorities will be applied within this new framework. It is critical for stakeholders to understand how NHTSA will enforce the terms and conditions of AV STEP participation, what consequences participants will face for non-compliance or safety violations, and how the agency will ensure worker safety during ADS testing and operations, especially given the voluntary nature of the program. The NPRM leaves many standards undefined, including key terms like "compromised safety" and "public interest." The lack of clarity around these terms leaves room for subjective interpretation by applicants.

In addition, the framework does not address enforcement or accountability measures for the independent assessors conducting conformance evaluations as part of the application process. NHTSA does delineate a number of requirements and standards for the independent assessment within the AV STEP program, but without a method through which assessors will be held accountable, there exists no incentive for AV companies to locate a qualified assessor to thoroughly evaluate their technologies. This arrangement has essentially outsourced the first level of safety review of these systems to any somewhat qualified individual willing to perform the evaluation.

By contrast, applications for a medical special exemption from the Federal Aviation Administration (FAA) for certain aviation sector employees also require an independent evaluation and endorsement prior to submission for approval. However, the medical examiners conducting these evaluations are separately regulated by the FAA and can be subject to decertification if they clear individuals the agency subsequently determines should have been rejected. This

accountability measure is a powerful tool that ensures medical evaluations remain accurate and impartial.

Finally, while NHTSA may be relying on its precedent with traditional automakers, which are heavily regulated and have strong incentives to comply with the program, AV developers do not share the same incentives because they are less connected to NHTSA's regulatory framework and may lack established safety cultures. Without a robust enforcement structure, AV STEP risks prioritizing expediency and potential profit for manufacturers over the well-being of the public and the transportation workforce, making the stated aspiration for "responsible development" ring hollow.

Oversight

NHTSA claims that the AV STEP structure ensures "direct accountability" by requiring operational control to remain with qualified entities, such as manufacturers or fleet operators. However, while this claim is present in the document, the NPRM does not outline mechanisms to verify participants' qualifications or impose minimum safety standards for operators. The operational control requirement acknowledges the need for flexibility in addressing varying logistics of ownership and possession but stops short of defining enforceable criteria for participant oversight.

NHTSA's approach in AV STEP leans on procedural safeguards that depend entirely on applicant disclosures. These reporting requirements are too flexible to reasonably ensure safety and compliance with the framework. NHTSA goes as far as to suggest adapting reporting requirements based on what AV companies already report to state and/or local entities. We strongly encourage NHTSA to develop more stringent reporting requirements in order to ensure meaningful oversight and protect public safety.

Concerningly, the AV STEP framework also allows for applicants to receive streamlined review for exemption requests, even in cases where NHTSA has already updated rules to accommodate AVs. While we appreciate that vehicles that received exemptions would lose them upon leaving the program, streamlining the exemption process creates unnecessary loopholes and reduces safety oversight. We urge NHTSA to exercise necessary scrutiny when evaluating exemption requests.

Commercialization

Despite NHTSA's acknowledgement in the NPRM that exemptions under 49 U.S.C. 30114 should not be used for profit, the program is clearly designed to facilitate and expand commercialization rapidly for participants. Allowing exemptions for commercial purposes under the guise of public benefit risks undermining public trust if companies exploit these allowances without delivering meaningful societal value. Moreover, while applicants are required to disclose their intention to commercialize AVs to NHTSA, it is unclear if this information must be included for public disclosure.

The program also only includes a vague and opaque public interest (PI) test. This opens a large gap for use cases that would not otherwise meet a clearer standard of review. The test does not include labor impacts as a consideration despite prior acknowledgement that ADS-equipped vehicles will have labor impacts.

Conclusion

NHTSA has the duty and responsibility to assert its regulatory authority and oversight to ensure all road users are safe as we implement new technologies. The AV STEP fails to provide that safety and instead would enrich the technology sector. Voluntary programs with limited oversight, such as AV STEP, are wholly inadequate to ensure safety and security in transportation. A DOT-wide approach is needed that takes into account not only the significant safety concerns but also job and skills impacts as automated technologies emerge. As it stands, this framework gives the proverbial green light to tech companies who want to use unproven technology on our streets as a way to cut costs and undermine workers.

We appreciate the opportunity to comment on this docket and look forward to working with NHTSA in the future.

Sincerely,

Greg Regan
President