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National Highway Traffic Safety Administration (NHTSA)
Docket Management Facility
West Building, Ground Floor, Room W12-140
1200 New Jersey Avenue SE, Washington, DC 20590-0001

Re: Pilot Program for Collaborative Research on Motor Vehicles with High or Full Driving Automation (Pilot Program); 49 CFR Parts 555, 571 and 591; Doc. No. NHTSA-2018-0092

Ladies and Gentlemen:

The National Automobile Dealers Association (NADA) represents more than 16,000 franchised automobile and truck dealers who sell new and used motor vehicles and engage in service, repair and parts sales. Together they employ over 1,100,000 people nationwide, yet the majority are small businesses as defined by the Small Business Administration.

Earlier this year, NHTSA issued an Advanced Notice of Proposed Rulemaking (ANPRM) soliciting input on the factors and structure it should consider for a Pilot Program designed to facilitate, monitor and learn from the testing and development of emerging advanced vehicle safety technologies, and to assure the safety of those activities. In response, NADA offers the following comments and suggestions.

I. Introduction

The ANPRM seeks input in four areas:

1. Key factors for a Pilot Program on the safe on-road testing and deployment of automated driving system (ADS)-equipped vehicles and associated equipment.
2. Existing statutory provisions and regulations that allow for such a Pilot Program.
3. Regulatory relief (*e.g.*, exceptions, exemptions, etc.) to facilitate Pilot Program participation and the on-road research and testing of these vehicles, especially those lacking controls for human drivers that may not comply with current safety standards.
4. The safety and other analyses that should be performed to assess individual exemption petitions, and the terms and conditions necessary to protect public safety and to facilitate monitoring and learning from testing and deployment.

NADA supports a Pilot Program that recognizes the need to tailor existing statutory and regulatory authorities to the ongoing development of ADS-equipped vehicles. The Pilot Program should leverage off existing testing and demonstration programs and should strike a balance between facilitating ADS development, ensuring the safety of all road users, and collecting the test information and data. Since not all existing safety standards will translate to all ADS-equipped vehicles, the statutory allowance for testing-based exemptions should apply.¹

II. Terminology

The Pilot Program should focus on testing and demonstration projects and should not extend to the “deployment” of ADS-equipped vehicles. The terms “deploy” and “deployment” are undefined and are not found in either NHTSA’s statutory authority or in its regulations.² By referencing current SAE J-3016 terms and the definitions set out in NHTSA’s statutes and regulations, the Pilot Program will provide stakeholders with a clear picture of what it is designed to achieve with respect to ADS-equipped vehicle safety testing and development.

III. Pilot Program Design and Requirements

NADA concurs with the ANPRM’s description of NHTSA’s authority over ADS-equipped vehicles and of the fact that safety is of paramount importance, as it is with respect to all on-road vehicles. Moreover, NADA appreciates the ANPRM’s detailed description of the multitude of potential safety issues that relate to an ADS-equipped vehicle Pilot Program.

By collecting and analyzing test data, the Pilot Program will contribute to the development of new standards governing the safety performance of the sensors, software, and mechanics of SAE level 3, 4, and 5 ADS-equipped vehicles.³ NADA expects that such standards will need to be in place prior to the the full commercialization of many ADS-equipped vehicles. Regarding its duration, the Pilot Program should continue for as long as NHTSA has a need to obtain additional data necessary to the development of standards for ADS and ADS-equipped vehicles. Since prospective purchasers and other road users will require assurances that ADS will perform safely in the ODDs and the variety of climates, traffic conditions, and weather they are designed for, the Pilot Program should clearly specify test condition variety and duration for each ADS.

As a requirement for participation in the Pilot Program, NHTSA should require the use of Voluntary Safety Self-Assessments (VSSAs). VSSAs should be made available on NHTSA’s website for review by interested stakeholders. The VSSAs of Pilot Program participants should

¹ 49 U.S.C. §30112(b)(10)

² The National Traffic and Motor Vehicle Safety Act refers to “...manufacture for sale, sell, offer for sale, introduce or deliver for introduction in interstate commerce, or import into the United States...” 40 U.S.C. §30112.

³ NADA suggests that those new performance standards should require that ADS for on-road vehicles be at least as safe as proficient humans driving in the same operational design domain (ODD) and other conditions.

clearly explain the safety features of the ADS and how those features will perform during testing, both in the controlled conditions of proving grounds, and on public roads.

Maintaining safety throughout the duration of the Pilot Program also requires the involvement of state and local governments, who traditionally enforce traffic laws and regulate on-road vehicle operation. NHTSA should partner with state and local governments in jurisdictions where Pilot Program participants are operating to share safety information for the ADS-equipped vehicles being tested and to facilitate safety oversight of the testing.

IV. Data and Reporting

ADS-equipped vehicles produce large amounts of data, some of which is proprietary. The Pilot Program should require the sharing of only such data as is necessary to further its goals and objectives. In addition, NHTSA should be prepared to protect proprietary information as confidential business information.

Data utilized for safety research purposes should not require personal identifiers to be useful for standards setting purposes. Thus, Pilot Program participants should be required to scrub all personal data from their records to protect privacy.

When examining the safety performance of ADS and ADS-equipped vehicles, the Pilot Program should require the reporting and analysis of several different metrics. These should include all accidents involving injuries, deaths, and property damage. In addition, violations of traffic laws and motor vehicle codes should be reported and reviewed. Lastly, the Pilot Program should account for all incidents where human intervention was necessitated to back-up ADS performance, or where an ADS itself intervened by forcing a vehicle to pull over and cease operation or to otherwise override its “normal” operations. To facilitate appropriate safety analysis, when serious safety incidents occur, data should be reported to NHTSA by Pilot Program participants within 24 hours.

V. Pilot Program Exemptions from the Federal Motor Vehicle Safety Standards (FMVSS)

As noted above, Section 30112(b)(10) will exempt most ADS-equipped vehicles, as necessary, from noncompliance with one or more FMVSS. Section 30113 only comes into play when ADS-equipped vehicles are going to be sold or offered for sale, and only where an “exemption would make easier the development or field evaluation of a new motor vehicle safety feature providing a safety level at least equal to the safety level of the standard.”⁴ Of course, it is expected that the current FMVSS at some point will be amended as necessary to accommodate ADS-equipped vehicles that do not comply with them as currently written, but which are designed to be operated in a manner that is at least as safe as a human-operated vehicle.

⁴ 49 U.S.C. §30113(b)(3)(B)(ii).

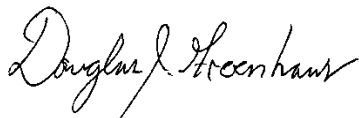
As the exemption granted by Section 30114 is potentially unlimited by time or number of vehicles, enrollment in the Pilot Program and a commitment to its safety priorities should be prerequisites to any exemption pursuant to Section 30114.⁵

VI. Dual-Use Vehicles

The Pilot Program should include a focus on so-called “dual-use” vehicles, i.e., ADS-equipped vehicles that offer the ability for and option of human control. Any vehicle with “dual-use” capability, at the very least, should be FMVSS compliant while in manual driving mode.

On behalf of NADA, I thank NHTSA for the opportunity to comment on this matter.

Respectfully submitted,

A handwritten signature in black ink, reading "Douglas I. Greenhaus". The signature is written in a cursive style with a large initial 'D'.

Douglas I. Greenhaus
Chief Regulatory Counsel,
Environment, Health and Safety

⁵ 49 U.S.C. §30114.