Comments of the Regulatory Action Center
Re: Removing Regulatory Barriers for Vehicles with Automated Driving Systems
Docket ID: NHTSA-2019-0036-0001

July 30, 2019

The Regulatory Action Center at FreedomWorks Foundation is dedicated to educating Americans about the impact of government regulations on economic prosperity and individual liberty. FreedomWorks Foundation is committed to lowering the barrier between millions of FreedomWorks citizen activists and the rule-making process of government bureaus to which they are entitled to contribute.

On behalf of over 5.7 million activists nationwide, FreedomWorks Foundation appreciates the opportunity to offer these comments regarding the notice and request for comments on Removing Regulatory Barriers for Vehicles With Automated Driving Systems (NHTSA-2019-0036-0001), and to participate in the extended comment period. This notice seeks to gain information on the potential development of a rule to set a framework for testing and verifying compliance with existing crash avoidance Federal Motor Vehicle Safety Standards (FMVSSs) for Automated Driving System-Dedicated Vehicles (ADS-DVs), also known as self-driving cars.

FreedomWorks Foundation strongly supports efforts by the administration to ease the regulatory burden and overcome many of the regulatory barriers that currently impede the auto industry as they continue to develop new self-driving technology. While we applaud the efforts of the Trump administration to reduce the regulatory burden on American companies and to increase competition in the marketplace, some of the rulemaking approaches proposed by the National Highway Traffic Safety Administration (NHTSA) and Department of Transportation (DoT) would have the opposite impact. We strongly encourage these agencies to consider the excessive burden that requiring test-modes or surrogate human controls would place upon companies in a highly competitive international market.

Currently, many, if not all, vehicle safety regulations require manual controls or specify that a “driver” is necessary for testing of all certified vehicles. As self-driving technology continues to advance at such a rapid pace, bringing FMVSSs into the twenty-first century is rightfully a priority for the DoT. Towards this end, FreedomWorks Foundation encourages considering the near and long term impact of regulatory changes. Simply updating the regulations to correspond with current technology is not enough. The Department must also

consider how these new regulations will impede or spur the future of self-driving technology. As a world leader in technological innovation, it is absolutely critical that regulatory agencies not overburden auto manufacturers with cumbersome regulation. In order to overcome the current regulatory barriers, and to encourage innovation, it is crucial that vehicles be tested as-is.

Of the six proposed testing approaches, by far the best option would be for vehicle manufacturers to use for self-certification, and the agency to use for compliance verification. This is labeled as the "Normal ADS-DC Operation" method. This proposal would simultaneously allow for safety verification under the most realistic circumstances as well as limiting the need for companies to install special hardware or software just for compliance testing, as would be required under nearly all other proposed approaches.

Testing ADS-DCs without any extra programming or hardware is simultaneously the best proxy for real world safety and the most cost efficient for both auto manufacturers and the testing agencies. In 2017, 37,133 people were killed in motor crashes in the United States, 94% of which were caused by human error.[1] The hope of many, including the NHTSA, is that the rise of self-driving cars and driver assist technology will dramatically decrease these numbers over the next few decades.

Mandating that these vehicles be tested using test modes or other programs specifically designed for the controlled environment of compliance testing has the potential to increase danger to consumers by ignoring the open-road performance of these vehicles. Rather than having special test modes, it is safer for the consumer if the ADS-DCs are tested as-is so that consumers can be sure that the safety test results produced under lab settings are mirrored by real life. Instituting such test procedures would increase the risk of miscalculation between what the test mode does and what the actual programming does, presenting a danger to consumers.

Furthermore, instituting Normal ADS-DC Operation regulations for compliance testing would be the most cost efficient of the proposed methods. For manufacturers, building testing programs or even test vehicles purely for government testing would be a waste of time and capital. Any other regulations besides the Normal Operation model would practically require manufacturers to produce two separate vehicles: one for testing and one for the road, dramatically increasing development costs. Similarly, requiring the development of new testing procedures and programs would carry a heavy cost for the testing agencies. Requiring test programs or manual controls would complicate the testing process, forcing testers to produce

[1] National Highway Traffic Safety Administration. *Automated Vehicles for Safety: Benefits of Automation.* https://www.nhtsa.gov/technology-innovation/automated-vehicles-safety

new programs and methods as new models of ADS-DCs come on the market. Normal Operation testing would avoid this issue. With Normal Operation regulations, most vehicles could be tested using existing methods just without a driver, dramatically lowering the cost of implementing new regulations.

In order to further increase efficiency and decrease testing costs, FreedomWorks Foundation is also supportive of using simulation modeling as a testing method. However, simulation modeling by itself is not sufficient to ensure consumer safety. As such, we encourage the DoT to include simulation modeling as one method of FMVSS testing, so long as the vehicle is also run through more traditional physical tests to ensure the accuracy of the simulation results.

As new technologies continue to arise and challenge the regulatory status quo, it is crucial that agencies like the DoT make every effort to update the rules. It is for this reason that FreedomWorks Foundation strongly supports efforts to bring existing FMVSSs in line with the new technology that comes with self-driving vehicles. It is our hope that, once finalized, these new regulations will allow auto manufacturers to overcome the current regulatory burdens that plague the industry and continue to innovate new and exciting technologies to make all of our lives easier.

Respectfully submitted,

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