



Comments submitted to: Federal Motor Carrier
Safety Administration (FMCSA)

Docket Number: FMCSA-2018-0037

Submitted by: Community Transportation
Association of America (CTAA)

Date: Aug. 27, 2019

Comments – [Safe Integration of Automated Driving Systems – Equipped Commercial Motor Vehicles](#)

Statutory Basis for the Advance Notice of Proposed Rulemaking (ANPRM): The Federal Motor Carrier Safety Administration (FMCSA) request for comment is made pursuant to the general authority of the Motor Carrier Act of 1935 (MCA or 1935 Act) [[49 U.S.C. §31502](#)], the Motor Carrier Safety Act of 1984 (MCSA or 1984 Act) [[49 U.S.C. §31136](#)], and the Commercial Motor Vehicle Safety Act of 1986 (CMVSA or 1986 Act) [49 U.S.C. chapter 313], as all of those statutes have been amended.

The request for comments related to remote AV operations are listed according to:

- Commercial Driver's License (CDL) Endorsements
- Drivers' Hours of Service (HOS) Rules
- Medical Qualifications for Human Operators
- Distracted Driving and Monitoring
- Safe Driving

CTAA AV PRINCIPLES
Accessibility
Equity
Rural Connectivity
Safety

Introduction

The members of the [Community Transportation Association of America](#)¹ (CTAA) are in the business of moving people – efficiently and cost-effectively – by transit, paratransit, volunteer transportation, and specialized transportation. Every single day, CTAA members take people to jobs, to health care, to school, to day care, to grocery shopping and to other

destinations that allow them to live, work, and enjoy their communities. Many of these rides are provided in interstate service in conventional buses or vans, and by drivers who hold commercial drivers licenses.

CTAA is a leader in providing resources and analysis of automated vehicles (AVs) and their impact on mobility options. We are educating transportation professionals across the United States, providing AV technical assistance, presenting at conferences, and engaging in discussions with companies developing different aspects of AVs and associated software. We monitor AV issues daily to stay abreast of technological, legislative, and regulatory updates. We have connected with other national organizations with an interest in how AV development affects their constituencies. Our work increasingly integrates emerging business models, public-private partnerships, and shared-use experimentation and advances.

¹ <https://ctaa.org/>

CTAA's [AV principles](#)² call for AVs to provide: (1) Accessibility, (2) Equity, (3) Rural Connectivity, and (4) Safety. CTAA recommends that the FMCSA exercise its authority consistently with our [AV principles](#). In this comment, CTAA addresses the principle of safety.

FMCSA and Transit

FMCSA regulations affect CTAA's public transportation members in the following three ways:

1. Many transit systems with interstate operations are required to adhere to FMCSA regulations;³
2. All drivers of commercial motor vehicles (CMV) must comply with FMCSA regulations that govern commercial driver licenses (CDLs); and
3. FMCSA regulations influence state agencies that regulate intrastate CMV requirements and standards, with many state regulations being mirror images of their federal counterparts.

CTAA supports fully automated transportation and envisions the life-changing benefits of automated vehicle (AV)⁴ technology. We see great potential for saving lives and for providing independence to people with disabilities and older adults. Our organization is submitting this comment because we are concerned that the FMCSA does not currently have either the capacity nor the funding to analyze detailed responses to its request.⁵

² https://ctaa.org/wp-content/uploads/2018/12/CTAA_AV_Principles_10-26-18.pdf

³ With the exception of CDL requirements, certain safety provisions, and drug and alcohol testing, which apply to all motor carriers that transport passengers, transit systems are, generally, not otherwise subject to FMCSA regulation. See 49 C.F.R. §§390, 390.3T. Interstate transit operations that fall within the jurisdiction of the FMCSA are defined by the negative of where they do *not* operate, such as those not operating within commercial zones or in designated geographic areas that are exempt from FMCSA regulation. See 49 C.F.R. §§372. 201-247 (Subpart B - Commercial Zones); §372. 241 and §372. 243 (general rules for determining the commercial zone around a municipality).

⁴ CTAA uses the term "automated vehicle" in this comment to mean an SAE level 4 or 5 vehicle, specifically a vehicle that does not need a human driver to operate the vehicle in normal conditions or for reaching a minimal risk condition in case of emergency, malfunction, emergency responder request, extreme weather conditions and similar circumstances.

⁵ The FMCSA may only regulate and otherwise act in accordance with and within the confines of its statutory authority. As the Supreme Court of the United States reiterated just this year, "the agency's reading must fall 'within the bounds of reasonable interpretation.'" *Arlington v. FCC*, 569 U. S. 290, 296 (2013). And let there be no mistake: That is a requirement an agency can fail." *Kisor v. Wilke*, No. 18-15, p. 14, 588 U.S. ____ (2019).

It could be that a court would determine that the FMCSA's reasonable interpretation of its statutory authority does not include AV technology because Congress' mandate only extends to human-operated vehicles. The FMCSA's authorizing statutes and legislative histories are replete with references to human drivers. This mandate reaches as far back as the Motor Carrier Act (1935), with the legislative history making plain that human drivers are the operators of vehicles considered to be motor carriers. J. George, *Federal Motor Carrier Act of 1935*, 21 Cornell L. Qtrly 249 (1936). It refers to drivers, driving, and "employees of such operators," meaning motor carrier transportation companies. W. Wagner, *Legislative History of the Motor Carrier Act, 1935*, p. 32-33 (Aug. 9, 1935) (available at <https://babel.hathitrust.org/cgi/pt?id=mdp.39015035065492&view=1up&seq=5>).

The 1935 Act specifically authorizes regulation of "qualifications and maximum hours of service of employees of, and safety of operation and equipment of, a motor carrier;" "driving and on-duty times;" and "physical testing, reporting, or recordkeeping." 49 U.S.C. §31502. The Commercial Motor Vehicle Safety Act of 1986 contains a host of references to drivers and granting authority to create regulations with respect to CDLs and "the fitness of an individual operating a commercial motor vehicle." See Pub. L. 99-570, 100 Stat. 3207-1 (Oct. 27, 1986) (available at <https://www.govinfo.gov/content/pkg/STATUTE-100/pdf/STATUTE-100-Pg3207.pdf>).

Collaboration and Research

CTAA is not an engineering research or standards organization. While CTAA represents members that provide the safest surface transportation modes in the U.S., and we support reducing regulation of already safe modes of transportation, as an organization, CTAA lacks the expertise to analyze biometric data relating to safe human operation of machines, reducing distraction, determining limits for hours of remote operation, and safe interaction between human drivers and partially automated driving systems.

CTAA urges the FMCSA to coordinate with its sister modal agencies at the U.S. Department of Transportation (USDOT), particularly the National Highway Transportation Safety Administration (NHTSA) and the Federal Aviation Administration (FAA), and its peers at the National Transportation Safety Board (NTSB) and the Department of Defense. We also urge collaboration across modes to the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA) so that AV research results and regulation can be applied consistently – and safely – across surface transportation modes.

Requests

Studies have been conducted over the past 20 years and are currently underway related to unmanned aircraft, remote monitoring of aircrafts, human interaction with partially automated systems, and safe and effective remote operations. CTAA asks the FMCSA to learn from this body of work and to follow in the footsteps of federal agencies that have and are presently confronting the issues that this FMCSA ANPRM poses.

CTAA asks that neutral safety organizations with expertise in the fields identified above be consulted to analyze data, research, testing, and proposed rules. We ask that whatever collaboration and research is undertaken by the FMCSA is implemented in an open process of shared data and public engagement.

CTAA also requests that the FMCSA engage the small and medium-sized transit operators across the country that provide service to thousands of Americans each day to learn more about what automated commercial vehicles would mean for their operations and for their riders. CTAA would be happy to engage our members to participate in such an effort.