

May 29, 2020

BY ELECTRONIC SUBMISSION

Docket Management Facility
U.S. Department of Transportation
West Building Ground Floor, Room W12-140
1200 New Jersey Avenue, SE
Washington, DC 20590-0001

Re: **Request for Comments on Notice of Proposed Rulemaking regarding
Occupant Protection for Automated Driving Systems, Docket No.
NHTSA-2020-0014**

Dear Sir or Madam:

The Consumer Technology Association (“CTA”)® submits these comments on the National Highway Traffic Safety Administration’s (“NHTSA”) Notice of Proposed Rulemaking regarding Occupant Protection for Automated Driving Systems, Docket No. NHTSA-2020-0014 (the “Proposed Rule”). CTA’s membership spans the full ecosystem of companies working to bring self-driving vehicle (“SDV”) innovations to America’s roadways, including vehicle and component manufacturers, software developers, and transportation platforms, among others. CTA supports NHTSA’s process of updating and modernizing the Federal Motor Vehicle Safety Standards (“FMVSS”) to account for automated driving systems. CTA encourages NHTSA to move forward with related rulemakings to “remove regulatory barriers,” such as rulemakings related to the FMVSS 100 series manual controls, motor vehicle telltales and indicators, and motor vehicle certification.

CTA and the industry are excited that NHTSA is moving forward with modernizing its regulations to address SDV technology. CTA applauds the agency for issuing its first proposed rulemaking updating the FMVSS to account for SDVs. Once final, this rulemaking will help begin the process of adapting our nation’s system of motor vehicle safety regulations to accommodate and recognize the importance of SDVs on our nation’s roadways. While there is much work to do, it is encouraging that the agency is officially starting on this path.

The Proposed Rule will help allow innovation and advancement within the transportation field. Regulatory modernization is crucial to realizing the tremendous

potential of SDV technologies to expand mobility, reduce emissions, drive economic growth, and enhance safety. CTA agrees with NHTSA's priorities in updating the FMVSS. Safety is paramount. This remains the most significant factor for consideration by the agency. Promoting innovation is also incredibly important. As noted by NHTSA, SDVs have life-saving, and life-improving, potential.

In the Proposed Rule, and throughout the agency's ongoing movement to update the FMVSS to account for the advent of SDV on the nation's roads, CTA believes the agency must remain technology neutral to avoid stifling innovation. Setting objective standards that all industry participants can strive to meet regardless of their specific approach will help advance NHTSA's safety goals. Similarly, a flexible approach to compliance verification testing is equally important to ensure that the transportation industry can show that safety standards are being met in the most appropriate manner. Taking steps to foster innovation now will ultimately result in better and safer vehicles on the nation's roadways in the future.

CTA also recognizes that the current COVID-19 pandemic has highlighted how technology and data can improve public safety, provide consumers access to supplies, and connect them remotely. These benefits help to literally save lives, both by ensuring social distancing, allowing contactless delivery, and lowering the number of fatal car accidents. Technology is helping deliver food, medicine, and household goods to millions of isolated Americans. This crisis has shown how self-driving vehicles and automated delivery technologies can help us begin to adapt to this serious situation.

Exemptions:

CTA encourages NHTSA to continue expeditiously moving forward with modernizing its FMVSS through the use of additional rulemakings -- rather than through additional opportunities for open comments on potential future proposals. As recognized by the agency, right now manufacturers may need to obtain exemptions from dozens of FMVSS for their SDVs. CTA is encouraged that, once finalized, the Proposed Rule will help decrease the number of FMVSS that would require an exemption.

Of course, the FMVSS cannot be completely overhauled through a single set of regulatory changes or without taking sufficient time to create appropriate updates and consider the ramifications of proposed changes. However, this regulatory history should not hinder progress for the SDV industry. Accordingly, in addition to removing particular regulatory barriers in separate rulemakings, NHTSA should also work to streamline the exemption process itself. Addressing exemptions in a faster manner will allow the SDV industry to begin introducing and testing these technologies, while letting the regulatory process run its course. The exemption process will, in turn, help to inform the ongoing regulatory modernization process. Making the exemption process more efficient will benefit the industry and regulatory process as a whole. Additionally, NHTSA should continue to utilize other administrative tools at its disposal—including the issuance of letters of interpretation and regulatory guidance—to construe the FMVSS and the Motor

Vehicle Safety Act as not presenting an obstacle to the testing, use, or commercialization of SDVs.

Occupantless vehicles:

With the advent of automated driving systems on our nation's roadways, the modern conception of a motor vehicle is changing. Notably, SDVs offer new types of motor vehicle formats than those many are used to seeing. This highlights the importance of updating FMVSS in general, as these standards are based on typical vehicle formats.

It is important that the agency is accounting for motor vehicles that are not designed for the purpose of carrying any occupants. These types of vehicles have different considerations than vehicles carrying people. CTA supports NHTSA's plans to seek separate public comment soon regarding the creation of a new FMVSS category for occupantless vehicles with no designated seating positions ("DSPs").

As NHTSA's Proposed Rule reflects, there is no need to require these vehicles to have occupant protection given that these vehicles have no occupants. Therefore, as NHTSA proposes, CTA agrees that the occupant protection standards should not apply to vehicles designed to travel without occupants.

While the Proposed Rule supports this viewpoint, it should be clarified to provide additional guidance to the SDV industry. For instance, the Proposed Rule appears to state that, other than the eleven separate FMVSS sections addressed by the Proposed Rule,¹ the FMVSS in the 200 series facially do not apply to occupantless vehicles without any DSPs.² However, CTA believes that it would be helpful for NHTSA to provide additional certainty on this point by specifying this explicitly and within the regulatory text. Accordingly, CTA requests that NHTSA revise the text of its Proposed Rule to expressly state that the FMVSS in the 200 series not otherwise addressed in the Proposed Rule do not apply to occupantless vehicles without DSPs.

As one example, this clarity would be valuable as applied to FMVSS Nos. 212 and 219, regarding windshields. FMVSS No. 205, related to windshield glazing, would not apply to occupantless vehicles, and it is beneficial to make explicit the same application for windshield mounting and intrusion standards. As noted by NHTSA in the recent grant of the R2X exemption petition, windshields do not add to the safety of occupantless vehicles, and may degrade vehicle safety.³ By expressly addressing the applicability (or lack thereof) of all FMVSS in the 200 series to occupantless vehicles in the text of the

¹ NHTSA, Occupant Protection for Automated Driving Systems, 85 Fed. Reg. 17624, 17625 (Mar. 30, 2020) (noting that the proposed rulemaking would address FMVSS Nos. 201, 203, 204, 205, 206, 207, 208, 214, 216a, 225, and 226).

² *Id.* at 17634 ("We have tentatively determined that no change is needed for FMVSS Nos. 202a, 209, 210, 212, 213, 217, 218, 219, 220, 221 and 222.5.")

³ See NHTSA, Nuro, Inc.; Grant of Temporary Exemption for a Low-Speed Vehicle with an Automated Driving System, 85 Fed. Reg. 7826, 7833 (Feb. 11, 2020).

rule, NHTSA would provide necessary certainty to the SDV industry--accomplishing one of the agency's stated goals in the Proposed Rule.

Thank you for the opportunity to provide these comments. We greatly appreciate NHTSA's continued engagement with stakeholders in developing a framework that supports the development and commercialization of SDV technologies. Please do not hesitate to contact us with any questions you may have.

Sincerely,

/s/ Gary Shapiro

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