



May 29, 2020

James C. Owens, Deputy Administrator
U.S. Department of Transportation
1200 New Jersey Avenue SE
West Building Ground Floor, Room W12-140
Washington, DC 20590-0001

Re: Notice of Proposed Rulemaking on Occupant Protection for Automated Driving Systems, Docket No. NHTSA-2020-0014, 85 Fed. Reg. 17624

The Self-Driving Coalition for Safer Streets (“Coalition”) is pleased to submit these comments regarding the National Highway Traffic Safety Administration’s (“NHTSA”) Notice of Proposed Rulemaking (“NPRM”) on Occupant Protection for Automated Driving Systems (“ADS”) published in the Federal Register on March 30, 2020.¹ Comprised of Argo AI, Aurora, Ford, Lyft, Nuro, Uber, Volvo Cars, and Waymo, the Coalition commends NHTSA’s continued efforts to identify and address regulatory barriers to deploying vehicles with unique designs that are equipped with ADS technologies. Specifically, the Coalition fully supports NHTSA’s efforts in this proceeding to pave the way for the deployment of autonomous vehicles (“AVs”) that lack manual controls by removing unnecessary barriers and modernizing many of its crashworthiness (200 Series) Federal motor vehicle safety standards (“FMVSS”) in a way that both maintains the current performance standards and provides regulatory certainty for manufacturers.

As NHTSA has recognized, AVs offer substantial safety and mobility benefits, holding the potential both to save lives and to change the way we drive.² An estimated 94% of all crashes are due to human error, including reckless, drunk, and distracted driving.³ The United States is home to millions of individuals—including seniors and those with visual impairments—who would benefit greatly from the increased safety and mobility that AVs would provide. A federal framework that helps advance the safe and timely deployment of AVs at scale will bring these benefits to the public sooner.

To develop such a federal framework, NHTSA should move forward with additional, complementary rulemakings in parallel with this proceeding. For example, NHTSA should continue its important work on removing barriers in the crash avoidance (100 Series) FMVSS, and the agency should proceed with its planned regulatory actions regarding removal of barriers in the FMVSS that pertain to telltales, indicators, alerts, and warnings in ADS-equipped vehicles.

¹ U.S. Dep’t of Transp., Nat’l Highway Traffic Safety Admin., Occupant Protection for Automated Driving Systems, Notice of Proposed Rulemaking, Docket No. NHTSA-2020-0014, 85 Fed. Reg. 17624 (Mar. 30, 2020), <https://www.govinfo.gov/content/pkg/FR-2020-03-30/pdf/2020-05886.pdf> (hereinafter “ADS NPRM”).

² See NHTSA, Automated Driving Systems, <https://www.nhtsa.gov/vehicle-manufacturers/automated-driving-systems>.

³ Press Release, U.S. DOT Releases 2016 Fatal Traffic Crash Data (Oct. 6, 2017), <https://www.nhtsa.gov/press-releases/usdot-releases-2016-fatal-traffic-crash-data> (noting that human choices are linked to 94% of serious crashes).



Furthermore, NHTSA should continue to use non-rulemaking administrative tools, such as issuing interpretive rules and guidance, to clarify that many existing rules, including provisions related to dual-use vehicles, do not impede the testing, use, or deployment of AVs. Through these ongoing efforts, NHTSA will help speed the safe deployment of AVs that have the potential to save lives and transform mobility.

In this proceeding, the Coalition applauds NHTSA's efforts to address the barriers to certifying compliance with the FMVSS for ADS-equipped vehicles that lack the traditional manual controls necessary for human drivers but that are otherwise traditional vehicles with typical seating configurations. In particular, the Coalition supports NHTSA's approach of modernizing many of the 200 Series FMVSS through making definitional or textual changes where necessary to remove barriers to innovation while ensuring that occupants of ADS-equipped vehicles continue to receive the same protections afforded by existing regulations. Such an approach appropriately balances the need to provide clarity to AV manufacturers as rapidly as possible while preserving the key safety benefits of the current regulatory scheme.

These comments begin with background information on the Coalition, followed by more detailed comments on NHTSA's approach and certain aspects of the proposed rulemaking. The Coalition looks forward to continuing to engage with NHTSA on these important issues.

I. Background on Coalition

The Self-Driving Coalition for Safer Streets is a coalition comprised of Argo AI, Aurora, Ford, Lyft, Nuro, Uber, Volvo Cars, and Waymo, eight of the world's leading technology, ridesharing, and automotive companies.⁴ Our mission is to advance and promote the benefits of fully self-driving vehicles (i.e., SAE Level 4 and 5 vehicles) and support the safe and rapid deployment of these innovative and potentially life-saving technologies. The Coalition works collaboratively with lawmakers, regulators, and the public to develop and promote policies that safely and thoughtfully advance fully self-driving vehicles in order for the technology to realize its full safety and mobility benefits. We also work with stakeholders to understand the broader societal and economic opportunities of self-driving vehicles. With its broad array of technical expertise and experience in the technology, automobile, and transportation network sectors, the Coalition looks forward to engaging with NHTSA in an effort to develop the right solutions that will facilitate the testing and deployment of fully self-driving vehicles to U.S. roads and highways.

II. The Coalition Supports NHTSA's Efforts to Provide Clarity to Industry While Removing Barriers to the Deployment of AVs.

The Coalition's comments are animated by the central principle that federal regulatory efforts addressing AVs are important to provide clarity to industry but should be undertaken in a

⁴ See <https://www.selfdrivingcoalition.org/>.



manner that allows for innovation. We believe that this NPRM takes an important step toward achieving these dual goals, and we encourage NHTSA to continue pursuing these objectives in additional rulemakings.⁵

The NPRM proposes changes that seek to remove unnecessary regulatory barriers to ADS-equipped vehicles in the crashworthiness FMVSSs while maintaining the level of occupant protection that these standards currently provide. In developing this proposed rule, NHTSA made certain assumptions and limited the scope of the barriers addressed to exclude certain subject matters that the agency intends to address in other notices. The Coalition supports NHTSA’s approach in this proceeding of grounding the proposed rule in certain assumptions and limiting the scope of barriers addressed, and we urge the agency to continue its rulemaking and other efforts to address the remaining barriers as soon as possible.

A. NHTSA’s Expressed Intent to Avoid Limiting Applicability of These Standards to AVs with Conventional Seating Configurations Allows for Innovation and Should Be Mirrored in Future Rulemakings.

The proposed rule states that it assumes that the initial ADS-equipped vehicles will have seating configurations similar to non-ADS vehicles, i.e., forward facing front seating positions (conventional seating).⁶ At the same time, the proposed rule acknowledges that this narrow scope “should in no way be interpreted that the agency believes that these standards are limited in applicability to ADS-equipped vehicles with conventional seating or that future updates will not be necessary to allow for ADS-equipped vehicles with unconventional seating arrangements.”⁷ Modifying the current standards to account for and include such non-traditional seating configurations, the proposed rule explains, requires significant additional research that NHTSA recently began and continues to work on.

The Coalition supports this flexible “stepwise” approach that involves addressing crashworthiness standards for conventional seating arrangements in this proposed rule while simultaneously working on and developing crashworthiness standards for unconventional seating arrangements that will appear in a future proposed rule. This approach properly recognizes that fully driverless technology is developing rapidly and that permanently limiting the applicability of updates in crashworthiness standards to AVs with conventional seating configurations may hamper innovation in AVs. We appreciate that NHTSA understands the importance of crafting a regulatory apparatus that can meet the evolving demands of technological innovation. The Coalition would urge NHTSA to continue the important work of developing unconventional seating standards in partnership with key industry stakeholders.

⁵ *ADS NPRM*, 85 Fed. Reg. at 17632 (“We seek to modify the existing FMVSSs in a way that will help provide regulatory certainty for manufacturers developing ADS-equipped vehicles and reduce unnecessary certification barriers and cost in certain areas.”).

⁶ *Id.* at 17631.

⁷ *Id.*



B. Continued Rulemaking on Occupant-Less Vehicles Will Incentivize Further Innovation and Benefit the Public.

The proposed rule addresses ADS-equipped vehicles designed exclusively to carry property (“occupant-less vehicles”) to the extent that NHTSA proposes that current crashworthiness requirements intended to protect human occupants should not apply to such vehicles. The proposed rule would modify the application section of 11 of the crashworthiness standards, and notes that the remaining standards by their very nature do not apply.⁸ We recommend that the preamble to the final rule briefly explain why each of the 200 Series FMVSSs does not apply to such vehicles, which would provide greater regulatory certainty. The proposed rule’s approach, recognizing that there is not a need for occupant protection in vehicles without occupants, would effectively facilitate the design of occupant-less vehicles while maintaining or enhancing safety.

The proposed rule also states that “NHTSA plans to complete research and separately seek public comment on the creation of a new FMVSS category for occupant-less vehicles.”⁹ As an initial matter, the Coalition would emphasize that the deployment of occupant-less vehicles in recent months has played a helpful role in combating the effects of the coronavirus pandemic. As NHTSA has highlighted, occupant-less vehicles have supported the U.S. response to the pandemic by offering contactless delivery of supplies in certain areas and providing other critical services, such as transport of lab and medical equipment.¹⁰ The technology behind occupant-less vehicles will only grow in its importance and promise in tackling pandemics and other crises that our society could face in the future. With this in mind, while the Coalition understands that NHTSA was unable to address all aspects of occupant-less vehicles in this proceeding, we would urge the agency to move forward with its rulemaking on this issue¹¹ as swiftly as possible as well as conduct any additional rulemaking necessary to address occupant-less vehicles. Agency action on these issues will assist in providing manufacturers with needed certainty as they further develop the occupant-less vehicles that will deliver crucial public safety benefits in the future.

C. NHTSA Should Review Exemption Petitions Expediently to Provide Clarity to Industry.

The proposed rule provides that “[u]ntil NHTSA comprehensively amends all the FMVSSs to not explicitly or implicitly require manual controls, NHTSA expects that manufacturers of ADS-equipped vehicles without traditional manual controls will seek exemptions from those FMVSS requirements that implicitly or explicitly require manual

⁸ *ADS NPRM*, 85 Fed. Reg. at 17634.

⁹ *Id.*

¹⁰ U.S. Dep’t of Transp., Nat’l Highway Traffic Safety Admin., *Coronavirus: Innovative Automotive Technologies: Technologies in Action* (last visited May 22, 2020), <https://www.nhtsa.gov/coronavirus/innovative-automotive-technologies-address-crisis-challenges#coronavirus-innovative-automotive-technologies-technologies-action>.

¹¹ See Passenger-Less Delivery Vehicles Equipped With Automated Driving Systems, RIN: 2127-AM18, <https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201910&RIN=2127-AM18>.



controls.”¹² The Coalition appreciates NHTSA’s demonstrated commitment to reviewing exemptions, including through granting its first ever AV exemption to Nuro in February 2020—an exemption that enabled Nuro to produce and test its next-generation autonomous delivery vehicle with new safety innovations and without any occupants.¹³ The Coalition would note, however, that the exemptions are limited to 2,500 per year, for two years, and that the timeline for a NHTSA decision following a request for exemption remains uncertain.¹⁴ For this reason, the Coalition would urge NHTSA to review exemption petitions expeditiously to provide maximum clarity to industry. We commend the agency’s recent efforts—through notices and amendments to NHTSA regulations—to streamline the exemption petition process, and we ask that NHTSA continue these efforts and work to ensure that granting exemptions remains a priority for the agency.

D. NHTSA’s Expressed Intent of Partnering with Industry Stakeholders on Certain Issues Will Help Ensure That Manufacturers Can Continue to Innovate While Meeting Safety Standards.

Throughout the proposed rule, NHTSA expresses its intention to engage with industry on certain issues to help ensure that the testing and deployment of AVs meet the necessary safety standards while accounting for advances in technology. For example, in explaining why the proposed rule does not address telltales and warnings as they relate to ADS vehicles with no occupant in the driver’s seat, NHTSA states that this “is a broad topic that will be discussed in a future notice focused solely on these issues, where the agency can engage the stakeholder community on those issues requiring additional policy and technical discussion.”¹⁵ The proposed rule also invites collaboration with industry to address the potential challenges of parking brake and transmission position for purposes of AV compliance testing. As the proposed rule indicates, “NHTSA expects that manufacturers will provide the means for the agency to achieve the necessary brake and transmission status, if only for compliance testing purposes.”¹⁶

The Coalition fully supports NHTSA’s approach in these and other instances of seeking to partner with industry to help ensure that any regulatory efforts account for advances in technology and do not impede the testing and deployment of AVs. As AV technology continues to evolve, such partnerships will become an even more important means of maintaining the safety of America’s roads while allowing manufacturers to continue developing these life-saving technologies.

¹² *ADS NPRM*, 85 Fed. Reg. at 17627.

¹³ U.S. Dep’t of Transp., Nat’l Highway Traffic Safety Admin., Notice of Grant of a Petition for a Temporary Exemption from Three Provisions of Federal Motor Vehicle Safety Standard (FMVSS) No. 500, “Low-speed vehicles,” Docket No. NHTSA-2019-0017, 85 Fed. Reg. 7826 (Feb. 11, 2020), <https://www.govinfo.gov/content/pkg/FR-2020-02-11/pdf/2020-02668.pdf>.

¹⁴ See 49 U.S.C. §§ 30113(d)–(e).

¹⁵ *ADS NPRM*, 85 Fed. Reg. at 17626.

¹⁶ *Id.* at 17641.



III. Conclusion

We appreciate the opportunity to provide comments on NHTSA's Notice of Proposed Rulemaking on Occupant Protection for Automated Driving Systems. These comments represent the continued engagement of the Coalition with NHTSA and other stakeholders on these important issues affecting the automotive industry and consumers around the world, and the Coalition looks forward to providing further comments and specific proposals to assist NHTSA in developing and advancing this important initiative.

Sincerely,

/s/

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