



August 31, 2020

Office of the Administrator
c/o James C. Owens, Deputy Administrator

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

Submitted electronically via www.regulations.gov

**RE: Agency Information Collection Activities; Notice and Request for Comment
Automated Vehicle Transparency and Engagement for Safe Testing (AV TEST) Initiative,
Docket No. DOT-NHTSA-2020-0070**

Dear Deputy Administrator Owens,

The Center for Auto Safety (“the Center”) appreciates the opportunity to provide comments on the notice and request for comment regarding the Automated Vehicle Transparency and Engagement for Safe Testing (AV TEST) initiative. The Center, founded in 1970, is an independent, member supported, non-profit consumer advocacy organization dedicated to improving vehicle safety, quality, and fuel economy. In 2020, we are celebrating 50 years of advocacy for consumer automotive safety and informed choice.

The AV TEST initiative offers the opportunity for companies testing vehicles equipped with automated driving systems (ADS) to submit information to the National Highway Traffic Safety Administration (NHTSA), and purports to be undertaken for the purpose of providing “information to the public about ADS testing operations in the U.S. and applicable State and local laws, regulations, and guidelines.”¹ Unfortunately for that public, the AV TEST initiative will provide little, if any, relevant safety information. In the best case scenario the result would be a map identifying only those manufacturers who choose to participate, and in the worst case a collage of unreliable data masquerading as proof of safety with a veneer of respectability provided by NHTSA’s implicit endorsement.

¹ See Agency Information Collection Activities; Notice and Request for Comment; Automated Vehicle Transparency and Engagement for Safe Testing (AV TEST) Initiative; 85 FR 39975 (July 2, 2020).

NHTSA's continued refusal to write rules mandating the submission of safety performance data by ADS manufacturers, means the AV TEST initiative will only provide the public with "access to geographic visualizations of testing at the national, State, and local levels."² There should be no confusion, the AV TEST initiative proposal provides no reason to believe the government will gather data intended to demonstrate ADS testing is conducted safely, or to determine if such testing presents a danger to the public. Since NHTSA has chosen not to write rules and prefers to enforce the rules in place with a light hand or none at all, perhaps the public would be better off with a map that simply told them what parts of the country to avoid.

With almost 40,000 crash deaths involving motor vehicles, over 2.5 million serious injuries, and over 6 million crashes on our roads, all at a cost of almost \$1 trillion annually there is no time to waste in moving towards deploying safe vehicle technology, be it autonomous or otherwise. The Center firmly believes ADS technology can play a significant role in a safer transportation future and is committed to seeing its successful and safe integration into our transit ecosystem. Sadly, it is now beyond clear that NHTSA's strategy regarding ADS development is not only to permit, but encourage, the deployment of self-described self-driving vehicles on public roads with hopes, instead of engineering data, that nothing too bad will happen. Even the most hands-off regulatory agency would recognize the long-term need to define and collect the type of data that would allow for future development of performance standards. Apparently, NHTSA cannot even clear that low bar.

Given the unconscionable failure of the designated agency to issue regulations governing ADS technology and safety, at the very least the government could act as a neutral third party, collecting standardized, comparable data from all ADS manufacturers. Thus, the public would have access to uniform data by which to compare one manufacturer's safety record to another. Again, even this minimal level of neutrality and oversight has proven too much for NHTSA.

In October 2018, the Center petitioned³ the agency to begin a rulemaking mandating all companies testing self-driving technology on public roads to submit safety information about their vehicles to the federal government. The petition was signed by hundreds of members of the public, a public that continues to be extraordinarily skeptical of the safety of ADS technology and its unregulated public road testing.⁴ Under NHTSA's own rules, a response to such a petition is due four months from receipt. More than 21 months later, NHTSA has failed to provide a response to this lawfully submitted petition.

In November 2019, the federal government's premier transportation investigatory body, the National Transportation Safety Board, (NTSB) unanimously recommended⁵ NHTSA require the collection of safety data for companies testing self-driving technology on public roads. This recommendation was made following NTSB's conclusion that Uber had "an inadequate safety culture" which led to a pedestrian being killed by an Uber AV test vehicle in Arizona. Uber has

² Id at 39976

³ <https://www.autosafety.org/center-for-auto-safety-petitions-nhtsa-to-begin-rulemaking-to-immediately-mandate-submission-of-safety-information-by-companies-testing-self-driving-technology-on-public-road/>

⁴ See "Americans still don't trust self-driving cars," <https://www.theverge.com/2020/5/19/21262576/self-driving-cars-poll-av-perception-trust-skepticism-pave>

⁵ See <https://www.nts.gov/investigations/AccidentReports/Reports/HAR1903.pdf>

resumed testing AV technology on public roads, yet NTSB's recommendation remains open and ignored.

Now, in the summer of 2020, NHTSA has decided to take the bold step of suggesting that some of the 80 companies⁶ testing ADS vehicles across the country, could, but only if they want to, submit some unspecified data. Even the notice and comment document reveals that NHTSA is not expecting any more than "40" ADS developers, manufacturers, or operators to choose to participate each year. In other words, even when collecting information the agency claims will be helpful to the public, the best response rate that is expected is 50%, from those companies who would deign to submit information about the safety of their operations for public scrutiny. The remaining half of the companies testing unregulated and unproven ADS are allowed and expected to do so in perfect obscurity. Put another way, this initiative, which is propped up as a bold step to provide the public with safety information, is set up for failure, and will at best provide consumers a misleading picture of the actual scope of AV testing and impacts in their area.

Finally, the notice provides exactly no details on what information will be required to be submitted by ADS companies who choose, if they feel like it that day, to participate. In fact, the description of what "may" be included in this information collection is so vague as to make it impossible to comment on "the accuracy of the Department's estimate of the burden of the proposed information collection."⁷ Further, it raises the question of how it was even possible for the agency to estimate the total annual hours. This lack of specificity could create the impression for a cynical observer that the entire initiative is intended to simply be a promotional sideshow for AV developers, and a distraction from the agency's refusal take any meaningful action to ensure AV safety.

CONCLUSION

Our country, and world, stand on the precipice of a transformational moment in transportation history. NHTSA should be preparing for the development and implementation of rules and regulations ensuring the safety of ADS-equipped vehicles on public roads for all drivers, passengers, and pedestrians. The initiative should also be informing the public of the comparative virtues and drawbacks of competitive offerings. In order to reach that difficult plateau, NHTSA must start by requiring the submission of uniform, useful safety and technical information from everyone testing this technology on public roads. Regulatory agencies are established and funded to protect the public, not merely cheerlead for industry. The public

⁶ See <https://www.cnbc.com/2019/11/20/tesla-and-uber-draw-scrutiny-at-senate-hearing-on-self-driving-cars.html>; <https://techcrunch.com/2019/06/11/over-1400-self-driving-vehicles-are-now-in-testing-by-80-companies-across-the-u-s/#:~:text=In%20a%20talk%20at%20the,by%20more%20than%2080%20companies>

⁷ See id at 39976, "By clicking on a testing location, members of the public will be able see additional information about the operation and the ADS operator. Additional information **may include** [emphasis added] basic information about the ADS operator, a brief statement about the entity, specific details of the testing activity, high-level (non-confidential) descriptions of the vehicles and technology, photos of the test vehicles, the dates on which testing occurs, frequency of vehicle operations, the number of vehicles participating in the project, the specific streets or areas comprising the testing routes, information about safety drivers and their training, information about engagement with the community and/or local government, weblinks to the company's websites with brief introductory statements, and a link to the company's Voluntary Safety Self Assessment (VSSA)."

deserves the information to understand what is happening in our communities until regulations have been promulgated and public confidence has surged.

The concept of AV TEST, to collect information from companies testing ADS vehicles, for the purpose of achieving NHTSA's mission is one the Center for Auto Safety strongly endorses. However, as described the initiative appears to be a step backwards from that goal.

Thank you for the opportunity to present our views on the Notice and Request for Comment Automated Vehicle Transparency and Engagement for Safe Testing (AV TEST) Initiative.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Jason Levine". The signature is fluid and cursive, with a long, sweeping underline that extends to the left.

Jason Levine
Executive Director

cc: Secretary Elaine Chao, U.S. Department of Transportation