



January 21, 2021

VIA ELECTRONIC FILING

National Highway Traffic Safety Administration
United States Department of Transportation
1200 New Jersey Avenue S.E., West Building
Washington D.C. 20590-0001

RE: Notice Regarding the Applicability of NHTSA FMVSS Test Procedures to Certifying Manufacturers, NHTSA Docket No. 2020-0119, 85 Fed. Reg. 83143 (December 21, 2020)

To Whom it May Concern:

The Alliance for Automotive Innovation (“Auto Innovators”) appreciates this opportunity to provide input to the National Highway Traffic Safety Administration’s (“NHTSA” or “Agency”) request for public comments in response to the interpretation titled, *Notice Regarding the Applicability of NHTSA FMVSS Test Procedures to Certifying Manufacturers*.

Auto Innovators’ members are committed to a safer, cleaner, and smarter automotive transportation future. This future will be enabled in part through technological innovation, including the advancement of automated driving systems (ADS). ADS-operated vehicles have the potential to reduce the number of fatalities on our nation’s roadways by decreasing the number of motor vehicle crashes due to human error. In addition, ADS-operated vehicles hold promise to provide numerous social and economic benefits, including less congestion, lower fuel consumption, and increased mobility for the elderly and people with disabilities.

This interpretation is necessary to resolve a critical aspect of the 2016 NHTSA letter of interpretation to Google, Inc., which stated that manufacturers could not validly certify FMVSS compliance unless NHTSA could verify compliance using the FMVSS test procedures. As NHTSA points out in the Nuro Temporary Exemption Grant and current interpretation, this presented a substantive change for the

Agency that conflicted with previous NHTSA interpretations of the Safety Act.^{1,2} In addition to these legal concerns, NHTSA states that from a procedural standpoint, the Google interpretation was not well-founded because it did not acknowledge the change in policy that the interpretation set forth.²

Auto Innovators agrees with NHTSA's legal and procedural concerns regarding the 2016 Google interpretation and appreciates the clarity that the current interpretation provides to all vehicle manufacturers. It clearly reestablishes NHTSA's longstanding position on FMVSS compliance testing and reaffirms that manufacturers are not required to use the test conditions or procedures provided in the FMVSS for their self-certification. The interpretation further clarifies that manufacturers acting in good faith and exercising reasonable care may certify a vehicle as compliant even if NHTSA cannot conduct the exact testing procedures set forth in the standard. This interpretation is consistent with the Safety Act.

In addition, this interpretation promotes continued innovation with respect to new vehicle technologies that have the potential to meet or exceed the FMVSS performance standards but may not be able to execute existing test procedures. As stated in the interpretation, such an approach supports the Safety Act's self-certification framework and upholds the Act's safety-innovation goals.

This interpretation appropriately restores NHTSA's longstanding policy on FMVSS certification authorized by the Safety Act. In doing so, it provides clarity for manufacturers who are developing vehicles with novel designs.

Auto Innovators notes, however, that such clarity is lacking from the existing Part 555 FMVSS exemption process. While this is a separate issue and out of scope for the interpretation at hand, Auto Innovators looks forward to working with NHTSA to develop a common understanding of the expectations and evaluation criteria used for these purposes.

Thank you for your consideration of our perspectives. We welcome any questions or further discussion on these important topics.

Sincerely,



Hilary M. Cain
Vice President
Technology, Innovation, & Mobility Policy

¹ See Nuro, Inc.; Grant of Temporary Exemption for a Low-Speed Vehicle with an Automated Driving System, 85 FR 7826, Section VI(d) (Feb. 11, 2020).

² See Notice Regarding the Applicability of NHTSA FMVSS Test Procedures to Certifying Manufacturers, 85 FR 83143, Section III (December 21, 2020).