



SUBMITTED ELECTRONICALLY

August 19, 2022

Ms. Ann Carlson
Acting Administrator
National Highway Traffic Safety Administration
1200 New Jersey Avenue S.E., West Building
Washington D.C. 20590-0001

Re: Docket No. NHTSA-2022-0066
Docket No. NHTSA-2022-0067
Petitions for Temporary Exemption from Safety Standards

Dear Ms. Carlson:

Einride US Inc. (“Einride”) respectfully submits this comment letter regarding the petitions filed by General Motors Company (“GM”) and Ford Motor Company (“Ford”) seeking exemption from certain elements of the Federal Motor Vehicle Safety Standards (“FMVSS”) for vehicles equipped with an Automated Driving System (“ADS”), pursuant to 49 C.F.R. part 555.¹ Although Einride takes no position on the specific ADS solutions proposed by GM and Ford or the efficacy of their safety mechanisms, we submit this letter to underscore the importance of creating viable legal pathways for innovative companies to develop autonomous vehicles (“AVs”) and safely deploy them on public roads for commercial purposes. In particular, Einride supports granting exemptions under Part 555 from legacy safety requirements that are unnecessary and often counterproductive if applied to AVs, as well as establishing other regulatory pathways that will advance the state of the art and allow companies to safely deploy groundbreaking designs to the public’s benefit. Therefore, as the National Highway Traffic Safety Administration (“NHTSA”) evaluates and rules on these petitions, it should apply transparent standards and provide meaningful guidance that will facilitate the ability of other operators of AVs to deploy safe and innovative technologies by providing clear guidance on pragmatic exemptions for equipment not present on an AV, and guidance on how to assess equivalent levels of safety for novel non-compliant solutions.

¹ See Notice of Receipt of Temporary Exemption; Request for Public Comment (July 21, 2022), <https://www.federalregister.gov/documents/2022/07/21/2022-15556/ford-motor-company-receipt-of-petition-for-temporary-exemption-from-various-requirements-of-the>; Notice of Receipt of Temporary Exemption; Request for Public Comment (July 21, 2022) <https://www.federalregister.gov/documents/2022/07/21/2022-15557/general-motors-receipt-of-petition-for-temporary-exemption-from-various-requirements-of-the-federal>.

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Einride is a freight technology company committed to harnessing humanity's capacity for creativity to fight climate change, the most significant challenge we face today. We are committed to commercially deploying autonomous, electric freight solutions globally. As such, Einride understands both the essential role that AVs will play in the creation of a more sustainable and efficient supply chain, and the importance of public safety as a pivotal consideration in the deployment of these new technologies. Einride also is familiar with the challenges that the nascent U.S. regulatory scheme presents with respect to companies' ability to deploy innovative AV solutions that (by design) do not comply with traditional FMVSS requirements. Such challenges make it more difficult for new entrants like Einride (and their customers) to reduce CO2 emissions and deliver additional benefits including increased competition and job growth.

Currently, there are few avenues for companies seeking to deploy innovative AV designs on public roads in the United States. Domestic legacy manufacturers are authorized to deploy their designs for non-commercial research purposes,² but new entrants like Einride fall outside that provision. And while NHTSA laudably sought to level the playing field by adopting the Part 589 interim final rule that allows additional companies to produce nonconforming vehicles domestically and to operate them on public roads for research or demonstration purposes,³ the Administration purported to rescind that rule in January 2021 and has not taken any action since to adopt a new rule. As NHTSA knows, Einride has received limited authority under Part 591 to test its imported autonomous trucks on private and public roads, which the company appreciates, but there is no sound policy justification for favoring imported vehicles over those manufactured or assembled in the United States. To the contrary, a regulatory scheme that forces companies like Einride to import AVs for research and testing purposes, rather than allowing domestic manufacturing or assembly of such vehicles, needlessly imposes operational burdens and other costs that jeopardize the environmental and economic benefits at stake and displaces American jobs to other countries. In all events, authority to operate AVs for research or demonstration purposes under Part 591 (or Part 589) does not extend to commercial operations, so Part 555 remains a critical mechanism for companies to pursue broader deployment of nonconforming AVs, including sustainable, electric freight solutions that employ an ADS.

Approval of FMVSS exemptions under Part 555 understandably is more stringent than exemptions for testing prototypes, as Part 555 authorizations permit the sale of vehicles to the public.⁴ Nevertheless, the Part 555 approval process is both complex and opaque, and thus can be daunting for more nascent companies, especially where their designs diverge from those NHTSA has publicly addressed and their business model differs from public sale. Einride does not sell vehicles. We operate connected, fully electric heavy duty trucks and plan to

² 49 U.S.C. § 30112(b)(10).

³ *Exemptions for Domestically Produced Vehicles and Equipment for Research, Investigations, Demonstrations, or Training*, Interim Final Rule, Docket No. NHTSA-2020-0122, RIN 2127 – AM14 (Dec. 31, 2020) (“Part 589 IFR”).

⁴ *See* Part 589 IFR at 9.

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commercially operate autonomous, connected fully electric heavy duty trucks. The petitions filed by GM and Ford present an important opportunity for NHTSA to bolster transparency and provide increased guidance to other stakeholders on the standards NHTSA will employ in evaluating such exemption requests. Einride accordingly urges NHTSA to carefully consider how its guidance will affect future applicants, including those in other weight classes and with novel use types. In doing so, NHTSA can ensure that Part 555 remains a pathway to promoting domestic innovation and competition while protecting public safety.

More specifically, Einride urges NHTSA to implement the following principles in devising its response to the GM and Ford petitions:

- **Provide guidance to other industry participants:** When evaluating petitions under Part 555, NHTSA of course must consider and address the specific merits of the petitioners' proposals, but it also should provide broader guidance regarding the standards it applies in determining whether and to what extent it will grant exemptions from FMVSS requirements. As noted above, industry stakeholders face significant challenges in bringing innovative AV technology to market in the United States, particularly in the freight sector, where limited options exist for research and testing and there have been no Part 555 petitions filed to date. NHTSA can provide much-needed guidance in addressing the proposals submitted by GM and Ford. For example, in evaluating a petitioner's safety showings, NHTSA should specify, to the extent feasible, the types of testing and evidentiary showings it will expect from other petitioners, and how such standards may vary for vehicles in other weight classes. By the same token, NHTSA should explain in its disposition of these petitions how it will evaluate the public interest in granting exemptions from particular FMVSS requirements.
- **Preserve flexibility:** In providing such guidance, NHTSA should bear in mind the wide range of equipment and software solutions operators of nonconforming vehicles may employ, especially given the different use cases (e.g., passenger vehicles vs. freight trucks), form factors (e.g., occupant-free vehicles vs. those carrying passengers), and the rapid pace of technological advancement. In addressing proposals tailored to the particular use cases set forth by GM and Ford, NHTSA should take care to preserve flexibility for companies that will pursue different business models—e.g., for Einride, whose autonomous electric trucks will not have human drivers or carry passengers. To that end, NHTSA should avoid imposing general requirements that would curtail opportunities for future petitioners (including those with different use cases and vehicles in other weight classes) to demonstrate safety equivalencies or satisfy relevant requirements through other means. Although leading legacy manufacturers have focused primarily on the role that AVs will play in the everyday lives of consumers, freight applications of fully electric AV technologies are vital to the public interest in promoting clean transport solutions to mitigate the harmful effects of climate change.

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Einride appreciates the opportunity to provide input on these petitions and the opportunity they present to provide guidance on Part 555 petitions more generally. Please contact the undersigned with any questions regarding these comments.

Sincerely,

DocuSigned by:
Michelle Avary
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Michelle L. Avary
VP Government Affairs & Product Strategy
Einride