



September 21, 2022

Ann Carlson, Acting Administrator
U.S. Department of Transportation
Docket Operations, M-30, Room W12-140
1200 New Jersey Avenue SE
Washington, DC 20590

Submitted via the Federal eRulemaking Portal

Re: Ford Motor Company-Receipt of Petition for Temporary Exemption From Various Requirements of the Federal Motor Vehicle Safety Standards for an Automated Driving System-Equipped Vehicle

Dear Acting Administrator Carlson,

The Autonomous Vehicle Industry Association (“AVIA”) writes in regards to Ford Motor Company’s Petition for Temporary Exemption From Various Requirements of the Federal Motor Vehicle Safety Standards for an Automated Driving System-Equipped Vehicle (“Exemption Petition”).¹ Expediently approving temporary exemption petitions for vehicles equipped with automated driving systems (“ADS”) that meet the requirements set forth in 49 U.S.C. § 30113 is a critical step toward bringing the benefits of AVs to the public. We support the advancement of autonomous vehicle technology and support National Highway Traffic Safety Administration (“NHTSA”) acting favorably on any petitions that satisfy the Agency’s requirements.² Further, as explained in our comments below, we encourage NHTSA to consider the implications of various terms and conditions it may impose on exemption petition holders related to ADS-equipped vehicles.

As background, AVIA is comprised of the world’s leading technology, ridesharing, trucking, and automotive companies.³ Our mission is to realize the benefits of autonomous vehicles (*i.e.*, SAE Levels 4 and 5-capable vehicles) and support the safe and expeditious deployment of these technologies. With its broad array of technical expertise and experience in the technology, automobile, and transportation network sectors, AVIA welcomes engaging with NHTSA as the Agency evaluates this Exemption Petition.

¹ Ford Motor Company-Receipt of Petition for Temporary Exemption From Various Requirements of the Federal Motor Vehicle Safety Standards for an Automated Driving System-Equipped Vehicle, 87 Fed. Reg. 43602 (July 21, 2022).

² Please note that AVIA’s comments related to this Exemption Petition and the General Motors Exemption Petition, also published by NHTSA on July 21, 2022, are identical with respect to substance.

³ Ford Motor Company is a member of AVIA.



Based on the significant benefits offered by ADS-equipped vehicles, we believe that granting the Exemption Petition is consistent with the public interest, as required by 49 U.S.C. § 30113(b)(3)(A). Autonomous vehicles, or AVs, have tremendous safety, mobility, and environmental benefits, holding the potential to save lives, change the way we move goods and people, and contribute to critical sustainability goals. As NHTSA itself has estimated, nearly 43,000 Americans died in motor vehicle crashes in 2021. These numbers represent a 16-year high and an 11% increase in fatalities from 2020, which is the largest annual percentage increase in the nearly 50 years that the Agency has maintained these statistics. The U.S. Department of Transportation also recently reiterated that the overwhelming majority of these fatalities involve at least one human behavioral issue as a contributing factor. For example, one person is killed every 52 minutes due to drunk-driving. The ongoing tragedy on our roadways underscores the need to support AVs. AVs have the potential to reduce fatal traffic crashes because, unlike human drivers, AVs do not drive drunk, drowsy, or distracted—all major contributors to roadway deaths. Moreover, the United States is home to millions of individuals—including seniors and those with visual impairments—who stand to greatly benefit from the increased safety and mobility that AV deployment can bring. In addition to offering safety and mobility benefits, AV technology can help reduce traffic congestion, improve environmental quality, and advance transportation efficiency. Supporting the deployment of AVs by expeditiously granting petitions that enable more ADS-equipped vehicles to operate on US roads will help to ensure that these benefits can be brought to the public at scale. Therefore, to advance the public’s interest, we encourage the Agency to act favorably on the Exemption Petition.

However, we respectfully request that the Agency consider the implications of a number of terms and conditions around which it has sought public comment to potentially accompany a granting of the Exemption Petition. In particular, we encourage NHTSA to reconsider the terms and conditions proposed related to crash reporting requirements, 90-day reporting requirements, the duration of reporting requirements, and restrictions on vehicle ownership and control. In addition, we suggest that important non-safety topics, such as environmental and economic impacts, would be best addressed through periodic meetings between NHTSA and the manufacturers and operators who have received a Federal Motor Vehicle Safety Standards (“FMVSS”) exemption. While AVIA provides comment below on key proposed terms and conditions on which NHTSA has invited public comment, we would welcome the opportunity to provide additional feedback to the Agency at a later date.

Term 1: Crash Reporting Requirements.

AVIA shares NHTSA’s commitment to safety and supports providing information about the safety of ADS-equipped vehicles. However, AVIA recommends that NHTSA not impose crash reporting requirements as contemplated in the proposed Term 1 as these requirements are



unnecessary in light of the substantial crash reporting obligations imposed on the petitioner by the 2021 Standing General Order on “Incident Reporting for Automated Driving Systems (ADS) and Level 2 Advanced Driver Assistance Systems (ADAS)” (“SGO”). AVIA understands that the terms proposed in this Exemption Petition are consistent with those set forth in a 2020 exemption granted for an ADS-equipped vehicle, which predated the SGO. Given the existence of the SGO and the significant obligations by the SGO, we believe it would be unduly burdensome to separately impose crash reporting obligations on entities subject to the SGO, like the petitioner. Moreover, the proposed conditions would require the petitioner to provide particularly detailed information about a crash within 24 hours, regardless of the practicalities of collecting that information in so short a period or the severity of the crash. This could impose a significant reporting burden in the wake of minor incidents, without even applying the factors used to distinguish severity of crashes in the SGO.

Term 2: 90-Day Reporting Requirements.

AVIA strongly recommends that the reporting requirements proposed in Term 2 not be imposed on petitioners seeking exemptions for ADS-equipped vehicles. While AVIA believes it is important for NHTSA to have access to information that will allow it to achieve its statutory mandate of reducing “traffic accidents and deaths and injuries resulting from traffic accidents,”⁴ we do not believe the data that would be reported subject to the proposed Term 2 would achieve this purpose but instead may create significant burdens for entities subject to such obligations. For instance, requiring heat maps of geofenced areas where an exempted vehicle operates, as contemplated in Term 2(a), to be reported is unlikely to have a meaningful impact on safety but may create material administrative burdens for exemption petition holders.

At minimum, NHTSA should limit the information required to be reported and impose reporting only in limited circumstances. For instance, we recommend that Term 2(c), proposing that a petitioner describe any incidents that violated traffic laws, be required only when the vehicle is operating under ADS control and only when a traffic violation has led to a citation. The current proposal would require reporting of traffic violations by human operators of ADS-equipped vehicles, which would not provide meaningful information to NHTSA regarding the safety of the vehicle. In addition, Term 2(e) proposes to require “detailed descriptions of all instances in which a public safety official attempted to interact with an exempted vehicle.” Again, we recommend that such reporting requirements be limited to interactions where a traffic citation was issued. This information would provide the most value to NHTSA while avoiding a significant reporting burden on the exemption petition holder.

⁴ 49 U.S.C. § 30101.



Term 10: Duration of Reporting Requirements.

In response to Term 10, AVIA strongly recommends that any reporting required as a condition of an exemption petition be required only for the two-year exemption period, rather than the normal service life of the vehicle. Conditions imposed by NHTSA for exemption petitions for ADS-equipped vehicles should be consistent with those imposed on traditional vehicles. It is our understanding that obligations exceeding the duration of the permit have not historically been applied to Part 555 exemption petitions related to non-ADS-equipped vehicles. Further, applying the proposed obligations for the duration of the exemption—i.e., two years—would provide NHTSA with a meaningful opportunity to more directly oversee the vehicles subject to the exemption. Beyond this two-year period, as needed, the Agency could rely on its other significant authorities to receive additional information regarding the vehicles from the exemption petition holder.

Term 7: Restrictions on Vehicle Ownership and Control.

AVIA recommends that Term 7, proposing that the petitioner maintain ownership and operational control over exempted vehicles for the life of the vehicles, be removed and not be applied for Part 555 exemptions for ADS-equipped vehicles. While ADS-equipped vehicles are not currently offered for sale to the public and are operated exclusively in closely monitored fleets by ADS manufacturers and developers, we believe the requirement proposed in Term 7 is inconsistent with the aims of Part 555 compliance and may impede business partnerships.

We appreciate NHTSA’s consideration of exemption petitions for ADS-equipped vehicles, but we see no reason to impose ongoing ownership obligations on exemption petition holders. Allowing an exemption petition holder to sell the exempted vehicle would be consistent with the aim of 49 C.F.R. Part 555, which we understand traditionally has been used to enable manufacturers to sell vehicles with new features. Indeed, the Agency’s recent interpretations in the context of “automated vehicles” have reiterated that 49 U.S.C. § 30113, which 49 C.F.R. Part 555 implements, “allows manufacturers a means to *sell* noncomplying vehicles.”⁵

Additionally, requiring an exemption petition holder to maintain ownership and operational control over exempted vehicles may impede existing business relationships. The AV ecosystem is diverse and complex. While certain AV developers and manufacturers own and operate their vehicles, some partner with other companies. Requiring that exemption petition holders own and operate the vehicles does not take into consideration the varied business models

⁵ Ann Carlson, NHTSA Chief Counsel, to Timothy Goodman, Thomas Hine LLP, May 19, 2022. Available at <https://www.nhtsa.gov/interpretations/30112-30113-goodman> (emphasis added).



companies in the AV ecosystem deploy, and such requirements may impede innovation. We therefore request that Term 7 not be applied to potential exemption petition holders.

NHTSA's authority to grant exemptions from otherwise applicable FMVSS, or portions of such FMVSS, is an important tool for bringing the benefits of AVs to the public while the Agency continues to consider updates to FMVSS for modern vehicles like AVs. AVIA appreciates the opportunity to comment on the Exemption Petition, and we encourage the Agency to act favorably on any exemption petition filed pursuant to 49 U.S.C. § 30113 that satisfies the Agency's requirements.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'A.S. Wolf', is written over a faint, light blue circular stamp.

Ariel S. Wolf
General Counsel
Autonomous Vehicle Industry Association