

June 5, 2023

Ms. Ann Carlson
Acting Administrator
National Highway Traffic Safety Administration
1200 New Jersey Avenue, SE
Washington, DC 20590

Re: Agency Information Collection Activities; Notice and Request for Comment; Automated Vehicle Transparency and Engagement for Safe Testing (AV TEST) Initiative; Docket No. NHTSA-2022-0018, Document Number: DOT-NHTSA-2023-0015

Dear Acting Administrator Carlson:

On April 6th, 2023, the National Highway Traffic Safety Administration (“NHTSA”) published in the Federal Register a Notice and request for comments on a request for approval for extension with modification of a currently approved information to conduct an experiment to gather both objective and subjective data the voluntary collection of information from entities testing vehicles equipped with automated driving systems (“ADS”) and from States and local authorities involved in the regulation of ADS testing. (the “Notice”). The National Association of Mutual Insurance Companies (“NAMIC”) welcomes the opportunity to respond to this request for comments.

NAMIC membership includes more than 1,500 member companies. The association supports regional and local mutual insurance companies on main streets across America and many of the country’s largest national insurers. NAMIC member companies write \$323 billion in annual premiums. Our members account for 67 percent of homeowners, 55 percent of automobile, and 32 percent of the business insurance markets. Through our advocacy programs we promote public policy solutions that benefit NAMIC member companies and the policyholders they serve and foster greater understanding and recognition of the unique alignment of interests between management and policyholders of mutual companies.

There are two information collection components to this request. The first affects entities engaged in testing of ADS vehicles, including original manufacturers of ADS vehicles and ADS vehicle equipment, and operators of ADS vehicles. The second affects local authorities regulating testing of ADS vehicles within their jurisdictions, including States, cities, counties, and other municipalities. The AV TEST Initiative seeks to enhance public education and engagement with public ADS vehicle testing by coalescing information regarding respondents' various testing operations or requirements into a centralized resource.

This information collection seeks voluntarily provided information from entities performing ADS testing about their operations and information from local authorities about requirements or recommendations for such operations. NHTSA states that it already maintains a digital platform on its website that collects information from respondents and makes the information about ADS operations and applicable State and local requirements and recommendations available to members of the public.

In the Notice, NHTSA states that it believes that ADS technology, including technology contemplating no human driver at all, has the potential to significantly improve roadway safety in the United States, but that this technology remains substantially in development phases with companies across the United States performing varying levels of development, research, and testing relating to the performance of various aspects of ADS vehicle technologies. While much of these development operations occur in private facilities and closed-course test tracks, many stakeholders have progressed to conducting ADS vehicle testing on public roads or in public demonstrations. To regulate such operations in their jurisdictions, many local authorities, such as States and cities, have passed laws governing ADS vehicle testing on public roads. These statutes, regulations, and ordinances vary, ranging from operational requirements to mandating the submission of periodic reports detailing ADS vehicle operation.

The Notice states that this Initiative seeks to enhance public education and engagement with public ADS vehicle testing by coalescing voluntary information from respondents about their various testing operations or requirements into a centralized resource. The first objective is to provide the public with access to geographic visualizations of testing. The second objective is to provide members of the public with information collected from States and local authorities that regulate ADS operations.

Participation is completely voluntary, and each participant will choose its respective degree of involvement and the frequency of its submissions. NHTSA is proposing that the data collection involve up to 35 State or local government respondents and 40 ADS developer, ADS vehicle manufacturer, or ADS operator respondents per year.

The Notice request comments on whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility. NAMIC is generally supportive to the initiatives of NHTSA, but in this case, it is

our opinion that this purpose of this initiative is outside the purpose of the Department, will provide no worthwhile information and – most importantly – continues the improper promotion of the use of ADS prior to any validation of its safety.

NHTSA acknowledges that ADS is technology substantially in development phases. NHTSA acknowledges that ADS has potential to improve safety but fails to acknowledge that the many versions of ADS being tested on public roads by numerous companies may have an equal if not greater potential for less safety. Neither the former or the latter are established, yet NHTSA is proposing an initiative to enhance public education and engagement with ADS vehicles on public roads.

NAMIC fully supports ADS innovation and development that has been validated as enhancing safety; we do not presume safety based only on the potential or capacity to improve safety. The FAA, also part of the Department of Transportation with NHTSA, does not allow potentially safe aircraft to fly. The FDA does not allow potentially safe drugs to be allowed on the market. The EPA does not allow potentially safe chemicals in drinking water. The Department of Corrections does not allow potentially safe prisoners to be paroled.

At this development stage of ADS technology, we do not believe that the National Highway Traffic Safety Administration should enhance public engagement regarding unproven safety issues. We are skeptical at best that voluntary information from testing companies that chose to provide information will provide an objective basis for public education on ADS testing, and NHTSA should not facilitate or distribute such information, which amounts to an endorsement of the underlying technology. Similarly, states and local governments that have chosen to permit limited ADS testing may provide somewhat more objective information, but we are similarly uncertain that any government unit that has chosen to allow such testing will voluntarily provide NHTSA with anything but positive data rather than anything that might indicate their decision may have compromised safety.

As the development of automated vehicles goes forward, the insurance industry will continue to play a leadership role as it has done historically to promote safety and the protection of persons and property. The Federal government – through NHTSA – should have the authority to make determinations of performance and safety, as well as data integrity, of ADS, and should build a framework for helping the public clearly understand expected performance and safety of various levels of ADS. States and localities should have the authority to make the determinations of the registration, licensing, and operation of ADS in that state/locality. States should retain the regulation of insurance for the vehicle and/or operator. States should retain the authority to define and address ADS liability issues in state/tort law and regulation in line with existing liability constructs.

NAMIC has been most supportive of the work of NHTSA and has developed ongoing relationships with the professionals at NHTSA. With respect to these proposals, however, NAMIC believes that any effort by NHTSA to enhance public education and engagement with public ADS vehicle testing will only be appropriate when NHTSA has established a requisite level of safety for ADS and ADS testing. Promoting education and engagement prior to that will prove harmful to public safety and impede proper development of safe ADS.

If you have any questions or require further information, please contact me at tkarol@namic.org. Thank you for your time and consideration.

A handwritten signature in blue ink, appearing to read 'TKarol', is positioned above the printed name.

Thomas J. Karol

General Counsel – Federal
National Association of Mutual Insurance Companies