

Federal Automated Vehicles Policy Public Meeting

Date: November 10, 2016

Location: United States General Services Administration,
Regional Office Building, 301 7th Street SW.,
Washington, DC 20407

EXECUTIVE SUMMARY

BACKGROUND

On November 10, 2016, the National Highway Traffic Safety Administration (NHTSA) held a public meeting to discuss the recently released Federal Automated Vehicles (FAV) Policy (the Policy). The morning session focused on general comments regarding the Policy, while the afternoon session focused on comments regarding the Vehicle Performance Guidance and the Safety Assessment Letter. Public commenters in attendance included representatives from a broad range of organizations, such as automotive manufacturers and suppliers, vehicle fleet operators, technology companies, industry associations, and advocacy groups. This document provides a brief summary of the major themes derived from the public comments received during the meeting.

The Policy provides guidance for manufacturers and other entities in the safe design, development, testing and deployment of highly automated vehicles (HAVs). The Policy is available here: www.nhtsa.gov/nhtsa/av/av-policy.html

I. Vehicle Performance Guidance

Public comments regarding the Vehicle Performance Guidance primarily focused on clarification needs for the Safety Assessment (SA) Letter, particularly around the Letter format, its submission process, and the criteria by which the Letters would be assessed. Key points included the following:

- *SA Letter Format and Submission Process:* NHTSA should provide clarification on the level of specificity required in the SA Letter, how NHTSA will evaluate the SA Letters for completeness/sufficiency, and describe the full process for which responses and follow-up actions will be communicated.
- *SA Letter Frequency and Triggers:* Commenters expressed concern over providing updated SA Letters as the HAV system changes. HAVs undergoing testing may require frequent hardware and software changes (e.g., multiple times a day) and as a result, there needs to be greater clarification on what 'triggers' an updated SA Letter submittal.
- *SA Letter Data Collection and Public Disclosure:* Commenters expressed differing views on how information from the SA Letter will be handled and shared with the public. Although all agreed on some form of public disclosure, industry representatives had concern over the treatment of confidential business information (CBI) and the manner in which it would be protected, if required. Other

commenters pushed for full disclosure of information included in the SA Letters to ensure public transparency.

- *SA Letter Applicability:* Some commenters suggested development of a separate SA Letter template for companies that only test systems in prototype vehicles (and do not commercially deploy). For these entities, some of the 15 points do not apply (e.g., consumer education). Commenters also requested clarification on applicability of the SA Letter to different vehicle categories (i.e., low-speed, heavy-duty, motorcycles).

II. Model State Policy

The discussion generally focused on clarifying the relationship between the Model State Policy and the vehicle performance guidance. Key points included the following:

- Commenters from the automotive industry expressed concern that States may make SA Letter submissions mandatory and/or required prior to allowing testing or deployment of HAVs. They discussed how this would be at odds with the voluntary nature of the Vehicle Performance Guidance.
- There is potentially conflicting language between the Model State Policy and the Vehicle Performance Guidance. Certain terms and assumptions included in the Model State Policy (e.g., safety and compliance plan) would need to be cross-referenced with language in the Vehicle Performance Guidance.
- States may not have adequate expertise or capacity to grant permission for HAV testing (as it is currently outlined in the Model State Policy). State agencies may not be prepared to assess applications received by manufacturers and other entities. It was suggested that NHTSA take an active role in consulting with States to address this.

III. NHTSA's Current Regulatory Tools

There was general support for the enforcement bulletin clarifying NHTSA's use of its recall authority. There were varying views on the sufficiency of interpretations and exemptions versus the establishment of regulation over the long term.

- Generally, commenters from the automotive industry expressed support for the Agency's expeditious use of interpretations and exemptions. Some, however, cautioned that this should be considered only as a temporary tool.
- Commenters from safety and consumer groups stressed that interpretations and exemptions should be issued in alignment with NHTSA's mandate of ensuring safety. They believed that these processes as described in the Policy emphasized the enabling of testing and deployment over safety. In addition, these processes generally do not provide for a means of public participation or review.
- Several commenters suggested a near-term need to establish new Federal Motor Vehicle Safety Standards (FMVSS) pertaining to HAVs and that voluntary guidance is inadequate to ensure that the public is not exposed to unreasonable risk.

IV. Modern Regulatory Tools

There were differences in opinion on using pre-market approval as a modern regulatory tool. The automotive manufacturers generally expressed support for continuing the existing self-certification scheme, while consumer advocacy and other groups supported exploring the use of pre-market approval.

- Automotive industry commenters discussed how the existing self-certification process can continue to work well for HAVs in the future and that pre-market approval strategies used in other industries (such as aviation) are imperfect analogies.
- The use of new legal authorities may assist in the introduction of HAVs, however, some form of legislation in this area could delay technology development and stifle innovation.
- Some commenters supported the use of pre-market approval, as long as NHTSA is provided the resources to perform the extensive amount of work required for that approach. In addition, pre-market approval, could give a false sense of confidence in HAVs in light of NHTSA's limited resources to implement such a system.
- Some stated that NHTSA should continue to issue performance-based standards for HAVs to ensure their safety and allow for public participation consistent with the Administrative Procedures Act.

V. General

- The majority of commenters expressed general appreciation and support for NHTSA's leadership in developing the Policy and for initiating this guidance.
- Several automotive industry commenters supported more frequent updates to the Policy (rather than once per year) in order to more quickly integrate constructive suggestions into the document. The reviews and updates should also be conducted through an open and transparent process.
- Some suggested that NHTSA should partner with other agencies (e.g., Federal, State, and local) whose missions relate to HAV-relevant issues. For example, NHTSA could coordinate with the Federal Trade Commission on issues related to misleading marketing and consumer privacy.
- There were suggestions regarding the need to integrate the interests of other stakeholders not currently addressed in the Policy. This would include commercial motor vehicles, standards development organizations, and ethics groups.