



Information Alert

State-Federal Relations Division

U.S. DOT Releases Version 3.0 of Its Autonomous Vehicles Guidance

Oct. 9, 2018

On Oct. 4, the U.S. Department of Transportation (DOT) released the latest update to its autonomous vehicles (AV) guidance: [Preparing for the Future of Transportation: Automated Vehicles 3.0](#). Overall, the guidance aims to build off of and supplement [AV 2.0](#), released in September 2017, and relies on six automation principles: prioritizing safety; technology neutral; modernizing regulations; a consistent regulatory environment; proactive preparation; and protect and enhance freedoms to “drive their own vehicles.” These principles are evident throughout the themes and ideas put forward in the document.

Guidance for State Legislatures

With respect to a consistent regulatory environment, the document specifically refers to states, noting that “State legislatures may want to first determine if there is a need for State legislation. Unnecessary or overly prescriptive State requirements could create unintended barriers for the testing, deployment, and operations of advanced vehicle safety technologies.”

However, the document also “urges States and localities to work to remove barriers—such as unnecessary and incompatible regulations—to automated vehicle technologies and to support interoperability.” Should a state decide to move forward with legislation, the document notes that “State legislatures are encouraged to routinely engage U.S. DOT on legislative activities related to multimodal automation safety.” Most importantly, the guidance makes no changes to existing state authorities and states remain responsible for ensuring the safe operation of motor vehicles on public roadways.

One DOT

While 2.0 was almost solely focused on the role of the National Highway Traffic Safety Administration (NHTSA), one of the modal administrations within the DOT, 3.0 strives to highlight how many of the department’s other modal administrations, including the Federal Highway Administration (FHWA), Federal Transit Administration (FTA) and Federal Motor Carrier Safety Administration (FMCSA), will take part in movement towards automated transportation—referred to as “One DOT.”

As with 2.0, a major theme of 3.0 is the voluntary nature of the document, with the word “voluntary” itself listed more than 50 times. The guidance makes clear that the DOT prefers a path forward that avoids setting new AV rules or standards, and continues its approach of requesting industry stakeholders to submit a “voluntary safety self-assessment” (VSSA) as first outlined in 2.0.

“Whenever possible, the Department will support the development of voluntary, consensus-based technical standards and approaches that are flexible and adaptable over time,” the document states. “When regulation is needed, U.S. DOT will seek rules that are as nonprescriptive and performance-based as possible.” However, over the past year, [only four VSSAs have been submitted](#), with substantially less detail than the DOT requested in its [Voluntary Safety Self-Assessment Template](#).

Future Actions

Throughout the guidance’s discussion of its six principles and how the DOT’s modal administrations would carry those forward, several forthcoming actions the different modal administrations anticipate making are highlighted, although no timeline for action is provided:

- DOT, across all administrations, will interpret and, consistent with all applicable notice and comment requirements, adapt the definitions of “driver” or “operator” as appropriate to recognize that such terms do not refer exclusively to a human, but may include an automated system.
- DOT will preserve the ability for transportation safety applications to function in the 5.9 GHz spectrum.
- NHTSA will request public comment on a proposal to streamline and modernize the procedures it will follow when processing and deciding exemption petitions.
- NHTSA will soon be soliciting applications for the \$60 million in AV testing grants provided in the fiscal year 2018 omnibus appropriations bill. The formal notice will appear in the Federal Register.
- NHTSA plans to seek comment on proposed changes to particular safety standards to accommodate automated vehicle technologies and the possibility of setting exceptions to certain standards—*that are relevant only when human drivers are present*—for ADS-equipped vehicles.
- FMCSA will initiate an Advance Notice of Proposed Rulemaking to address automated vehicles, particularly to identify regulatory gaps, including in the areas of inspection, repair and maintenance for ADS.
- FHWA will pursue updates to the 2009 Manual on Uniform Traffic Control Devices (MUTCD) to take into consideration new connected and automated vehicle or CAV technologies.

- The Pipeline Hazardous Materials Safety Administration (PHMSA) is researching the ability to enable the digital transmission of information to first responders before they arrive at an incident that involves hazardous materials.
- FTA is preparing guidance to provide stakeholders with clarity on existing FTA rules relevant to developing, testing and deploying automated transit buses.

Additional Items

The guidance also includes three particularly important announcements related to the DOT's policy on AVs:

- NHTSA released an [Advance Notice of Proposed Rule Making](#) seeking public comment on how it should structure a proposed collaborative AV safety research program.
- DOT, along with the U.S. departments of Labor, Commerce and Health and Human Services, will begin a comprehensive study of the impacts of automated vehicles on the workforce. A [draft Federal Register notice](#) requests public comment on the scope of the study.
- DOT, citing the rapid increase in AV testing and its policy of not favoring particular locations or to pick winners and losers, undid designations of the 10 Automated Vehicle Proving Grounds [announced](#) Jan. 19, 2017.

If you have any further questions on the DOT's new AV guidance, please contact Ben Husch at ben.husch@ncsl.org, 202-624-7779. Further, [NCSL's 2018 Capitol Forum](#) will include a session exploring the latest updates and deployments of autonomous vehicles.