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Federal Autonomous Vehicles Policy Released by NHTSA

60-Day Comment Period Provides Important Chance to Have Local Voices Heard



With the goal of creating a path for the safe testing and deployment of autonomous vehicles on public roads nationwide, the U.S. Department of Transportation and the National Highway Traffic and Safety Administration have issued a much-anticipated and groundbreaking draft [Federal Automated Vehicles Policy](#). Recognizing

the difficulty of regulating this transformative technology at such an early stage in development, DOT makes it clear that this initial Policy is only guidance seeking to foster the development of a consistent and permanent national regulatory framework.

While most of the guidance is intended to take effect immediately, DOT issued a request for comment for all parts of the Policy, including the recommendations concerning implementation of a “Model State Policy.” Local public agencies should carefully consider the future implications of this Policy on local planning and development, and submit comments during the 60-day comment period. This is an important opportunity for local governments to ensure this first version of the Policy reserves local control and tools for local agencies to implement the safe roll-out and introduction of autonomous vehicles onto our local roads.

The Policy is broken down into four sections that lay out the intended federal approach to autonomous vehicles:

- **Vehicle Performance Guidance:** Provides guidelines for the safe design, development, testing and deployment of autonomous vehicles. The guidance is intended for vehicles tested and deployed on public roadways. Issues such as data recording, privacy and cybersecurity are addressed, and NHTSA encourages data sharing on these topics.
- **Model State Policy:** For now, the guidelines reserve traditional state authority to establish and maintain highway safety programs by regulating issues like driver education and testing, licensing, pedestrian safety, law enforcement, vehicle registration and inspection, and others. The Policy asserts federal authority over setting vehicle safety standards and enforcing compliance with those standards, investigating and managing any recall efforts, communicating with and educating the public on motor vehicle safety, and issuing guidance on how to achieve national safety goals. Perhaps tellingly,

People



Gregory Rodriguez

OF COUNSEL

(202) 370-5308

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the guidelines “strongly encourage” states to allow DOT alone to regulate the performance of autonomous vehicles.

- NHTSA’s Current Regulatory Tools: Outlines the current regulatory tools NHTSA can use to ensure safe deployment, including new interpretations of existing rules to promote flexibility and testing of nontraditional vehicle designs and the granting of exemptions.
- Modern Regulatory Tools: Identifies potential new regulatory tools and statutory authorities that may be implemented or requested to help DOT meet the challenges and opportunities involving the safe and timely development of autonomous vehicles. Of note and examples of issues this new technology brings are references to post-sale authority to regulate software changes, additional recordkeeping and reporting requirements, and enhanced data collection tools.

The Policy, which is more than 100 pages, highlights the lifesaving potential of driverless cars to reduce traffic accidents and fatalities. In addition, it recognizes the potential for autonomous vehicles to transform personal mobility and offer efficient transportation options for seniors, the disabled and those who do not have the means to own a car. In a [press conference](#), U.S. Transportation Secretary Anthony Foxx described it as the “most comprehensive national automated vehicle policy that the world has ever seen.”

NHTSA Administrator Mark Rosekind clarified the Policy was intended to regulate for fully autonomous vehicles “with different designs than what we have on the road today,” and added that the Policy provides an opportunity for a “uniform consistent framework for the country.” At the same time, the Policy also provides the following guidance to address new regulatory challenges that arise with autonomous vehicles:

- States and local agencies should evaluate their current laws and regulations to address unintended impediments to the safe testing, deployment and operation of autonomous vehicles.
- For traffic laws, the definition of “driver” may need to be updated to reflect the self-driving system as the “driver” when it conducts driving tasks and monitoring the driving environment.
- States are encouraged to coordinate to establish uniform road infrastructure, including signs, traffic signals and lights, and pavement markings.
- Clear requirements and application procedures should be developed for manufacturers and other entities to request to test autonomous vehicles on roadways, with law enforcement being involved in the approval process.
- A warning that unsafe semi-autonomous systems may be an unreasonable risk to safety and subject to recall, which suggests federal policymakers are concerned about trusting human drivers to safely “take-back control” of a vehicle — an issue many states (including California) are debating.

With this guidance, DOT confirms its support for the deployment of this “inevitable” technology. DOT has announced an intention to update the Policy within the next year; however, this first Policy will establish the framework within which federal regulators view autonomous vehicles — making local participation

in this process vital.

For more information regarding these new autonomous vehicle guidelines, questions concerning the public comment process, or legal and policy issues associated with advanced transportation technologies, please contact one of the attorney authors of this Legal Alert listed at the right in the firm's [Transportation, Municipal and Government Relations](#) group, or your [BB&K attorney](#).

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