

**Comments of the
Ad-Hoc HAV Data Access Coalition
To the
U.S. Department of Transportation
Pipeline and Hazardous Materials Safety Administration’s
“Request for Information on Regulatory Challenges to
Safely Transporting Hazardous Materials by Surface Modes
in an Automated Vehicle Environment”**

Docket No. PHMSA-2018-0001

May 7, 2018

(83 Fed. Reg. 13464 (March 29, 2018))

The Ad-Hoc HAV Data Access Coalition (“Coalition”) is pleased to respond to the Pipeline and Hazardous Materials Safety Administration’s (“PHMSA”) “Request for Information on Regulatory Challenges to Safely Transporting Hazardous Materials by Surface Modes in an Automated Vehicle Environment.”

The Coalition is a voluntary group of diverse stakeholders – consumer protection and privacy advocates, vehicle fleet owners (both light- and heavy-duty), vehicle equipment suppliers and repair facilities, insurance companies and others – united by our common belief that vehicle owners control access to, and the use of, the personal information and vehicle data generated and stored by all motor vehicles.

As we collectively move towards the deployment of more automated vehicles – both light- and heavy-duty – in the coming years and decades, this issue of data access and control by vehicle owners and other parties will of necessity become more important. And this issue of data access and control takes on even greater importance when the automated vehicles involved are carrying hazardous materials. The Coalition welcomes this opportunity to provide input to PHMSA on these important issues and looks to working with Department of Transportation Secretary Chao and the leadership of PHMSA coming months and years on autonomous vehicle data access issues.

There are three key issues with respect to data access involving autonomous vehicles transporting hazardous materials that the Coalition urges PHMSA to address actively as it considers regulatory changes or updates: (1) communication and interoperability; (2) safety; and, (3) cybersecurity.

First, with respect to communication and interoperability, all vehicles are undergoing revolutionary changes with respect to how they communicate with other vehicles on the road, with the transportation environment surrounding them, and with vehicle owners and their representatives, drivers and passengers both inside the vehicle and at a remote location. The Coalition's focus is on access to, and control of, the data being generated, stored by, and transmitted from, the autonomous vehicle. However, without interoperability, that access and control will not be meaningful; seamless communication between vehicles, infrastructure, and the overall transportation environment (including governmental oversight and regulation) are essential. Given the very nature of the transportation of hazardous

materials, the communication and interoperability of vehicle data, as well as, the access to and control of that data, are core considerations for federal regulators.

The Coalition strongly supports maintaining the current uniform regulatory construct that the owners of motor vehicles, as well as parties to whom the owners give informed and advance permission, control access to the data generated and stored by connected or autonomous vehicles. This communication can relate to the location of the vehicle, the cargo transported, the operation of the vehicle, the weather at the vehicle's current location or along its planned route, and numerous other interactions between the vehicle, its driver and/or passengers, and individuals at remote locations (dispatchers, logistics and safety experts, first responders, and customers). All of these individuals need real-time and accurate communication with all vehicles operating in an autonomous mode, particularly if those vehicles are transporting hazardous materials.

Second, with respect to safety, the Coalition anticipates that data on hazardous material cargos will be communicated increasingly through data and the airwaves, rather than through placarding and manifests. As a result, first responders and law enforcement will be able – and must be able -- to access real-time, accurate and detailed information about a cargo electronically. Such real-time data exchange could well save lives and limit property damage in the event of an incident or an accident – underscoring the importance of real-time data access by vehicle owners and other authorized parties. Again, maintaining data access and control by vehicle owners – who have the accurate information on the freight being transported – and their authorized third parties – is vital to assuring real-time responses to incidents to avoid safety risks.

Third, cybersecurity has become a focus of autonomous vehicles, including the potential for hackers to disrupt communications between vehicles or take over control of an autonomous vehicle. Some stakeholders have gone so far as to assert that the sole method of addressing cybersecurity concerns in autonomous vehicles is to shut down or limit access to the data generated by a motor vehicle for anyone other than the manufacturer of the vehicle.

The Coalition strongly disagrees with this assertion and asserts that basic cybersecurity tenants support that proprietary and closed data systems are actually the most vulnerable to catastrophic failures. Accordingly, the Coalition urges PHMSA to resist the adoption of such an approach to autonomous vehicle cybersecurity and data access. The Coalition suggests that PHMSA promote a regulatory framework that insures that vehicle data access is: (1) open, secure, and neutral; (2) protected against hacking through recognized principles of data security by design; and, (3) accessible without charge to the vehicle owner and, should the vehicle owner provide informed advance consent, to authorized third parties.

Congress has signaled its interest in the autonomous vehicle data access and control issue through its unanimous adoption of a bi-partisan autonomous vehicle data access amendment to the Senate autonomous vehicle bill. This data access amendment, sponsored by Senators Inhofe (R-OK) and Baldwin (D-WI), would create a data access advisory committee comprised of a wide spectrum of stakeholders, including the Department of Transportation and the National Highway Traffic Safety Administration. The Inhofe/Baldwin Amendment was adopted by the Senate Commerce Committee unanimously in October 2017 and its inclusion of all legitimate stakeholders with an interest in autonomous vehicle data access should

form the foundation for all future discussions of data access and control of vehicle and personal data by vehicle owners – whether by PHMSA or other federal agencies.

Thank you for the opportunity to provide these comments from the Ad-Hoc HAV Data Access Coalition. The Coalition looks forward to working with PHMSA and all stakeholders to address the issues of autonomous vehicle data access, vehicle owner data control rights, and cybersecurity in the near future.

If the members of the Coalition can be of assistance to PHMSA, please do not hesitate to contact me at 202-297-5123 or at gscott@merevir.com.

MEMBERS OF THE AD-HOC HAV DATA ACCESS COALITION

American Automotive Leasing Association

American Bus Association

American Car Rental Association

Auto Care Association

Automotive Service Association

Consumer Action

NAFA Fleet Management Association

National League of Cities

National Motor Freight Traffic Association

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