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SUBMITTED ELECTRONICALLY via publicspace.policy@dc.gov

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Policy and Legislative Affairs Branch
Office of the Director
250 M Street S.E., 8th Floor
Washington, D.C., 20003

Subject: District of Columbia Autonomous Vehicle Notice of Second Proposed Rulemaking

Dear Ms. Kaufman:

The Alliance for Automotive Innovation (Auto Innovators) appreciates the opportunity to submit comments regarding the District Department of Transportation's (DDOT) Notice of Second Proposed Rulemaking (NOPR) relating to autonomous vehicle (AV) testing. These comments are offered to enhance the safety outcomes of the District's regulatory regime, bolster industry participation, and to minimize potential unintended consequences for DDOT and the AV industry.

Auto Innovators represents the full auto industry, including the manufacturers producing most vehicles sold in the U.S., equipment suppliers, battery producers, semiconductor makers, technology companies, and autonomous vehicle developers. Our mission is to work with policymakers to realize a cleaner, safer, and smarter transportation future and to maintain U.S. competitiveness in cutting-edge automotive technology. Representing approximately 5 percent of the country's GDP, responsible for supporting nearly 10 million jobs, and driving \$1 trillion in annual economic activity, the automotive industry is the nation's largest manufacturing sector.

We share the Department's commitment to establishing an automated vehicle testing regime that prioritizes safety, accessibility, and equity for all road users. However, we are concerned that the proposed regulations would create a testing environment that adds to the patchwork of regulations nationwide without providing adequate regulatory certainty or investment incentives. While many of the proposed provisions are well intentioned, it is our view that the envisioned testing regime: (1) could be better aligned with existing government and industry standards and approaches; (2) should avoid vehicle equipment mandates or adopt existing equipment standards; (3) could better incentivize program participation by providing regulatory certainty around deployment and fare collection; and

(4) should account for, and exempt, privately-owned vehicles with Level 3 capabilities.¹ We also offer our feedback and recommendations regarding additional topics that do not fall within the above categories.

Proposed AV testing framework should better align with existing federal, state, or industry standards.

DDOT's proposed regulations would create a new framework for testing automated vehicles in the District of Columbia. While DDOT notes that many of the proposed requirements seek to “mirror” those in California, Auto Innovators and its members view the proposed regulations as bespoke and burdensome. We agree that DDOT should have access to the data necessary to assess and enforce AV safety and compliance. However, the scope of data required by the DDOT proposal is overly broad and could pose risks to confidential business information. By creating yet another distinct reporting regime in which companies must navigate novel compliance requirements and definitions, DDOT may inadvertently limit the number of companies who will have the desire or ability to expand operations into the District. We strongly recommend that DDOT make every effort to harmonize its reporting and equipment requirements, by:

- **Adopting, to the greatest extent feasible, existing definitions and standards developed by SAE International.** For example, the regulations could be significantly streamlined by aligning key definitions with [SAE J3016](#).²
- **Utilizing the National Highway Traffic Safety Administration's (NHTSA) incident reporting framework established under the [Standing General Order](#) (SGO)** for automated driving systems (ADS) and Level 2 Advanced Driver Assistance Systems (ADAS). Many companies are already accustomed to collecting and reporting vast amounts of testing and operations data to NHTSA under the SGO. Therefore, the SGO can serve as an effective model for jurisdictions looking to establish a regulatory framework for AVs without creating significant new or duplicative compliance requirements for participants.
- **Avoiding vehicle equipment requirements.** If DDOT feels an equipment requirement is imperative, we encourage adoption of standards developed by SAE International. This concern is discussed in greater detail below.

¹ SAE International, *Taxonomy and Definitions for Terms Related to Driving Automation Systems for On-Road Motor Vehicles* (J3016_202104), https://www.sae.org/standards/content/j3016_202104/.

² For example, to align with SAE J3016, the term “autonomous vehicle” should be changed to “automated driving system (ADS)” and “ADS-equipped vehicle.” DDOT should also use SAE definitions for “minimal risk condition” and “dynamic driving task,” among others.

Proposed regulations should avoid mandating vehicle equipment requirements or align with industry standards.

Auto Innovators supports national or international standards for vehicle equipment. Instead, DDOT is proposing unique requirements for automated vehicles that will be tested in the District, namely, a two-way radio communication device, an autonomous mode indicator, and internal audio and visual notification capabilities. We oppose DDOT's proposed equipment requirements because: (1) the equipment does not appear to be justified in light of the proposed program constraints on driverless operation; (2) safety and efficiency benefits for first responders and road users may not be realized unless this equipment is standardized across jurisdictions; and (3) it is infeasible to scale AV operations if automakers are required to manufacture unique vehicles for each U.S. jurisdiction in which they operate.

- As currently drafted, there is no regulatory pathway towards driverless testing or deployment. As such, it seems wholly unnecessary to mandate novel equipment to enable communication with remote operators when a human must be in the vehicle while it is operating. If DDOT believes a communication device is necessary because it envisions eventually permitting driverless testing and deployment, then DDOT should embrace existing government or industry consensus standards.
- The regulations currently require that vehicles “clearly display...on the outside of the vehicle...an indication that the vehicle may be under autonomous operation.” However, regulators and researchers have not reached a consensus on whether external marker lamps produce net safety benefits in all contexts. Although specific technical standards are not enumerated in the regulations, this is another example in which incorporating the relevant SAE Standard (i.e., SAE J3134 ADS Marker Lamp) would help ensure alignment across jurisdictions for developers who wish to incorporate this technology. Auto Innovators recommends that manufacturers and ADS developers (Levels 3-5) should be permitted, but not mandated, to incorporate industry-standardized ADS technology into their vehicles.
- The regulations would also require a visible and audible notification that the vehicle will be operating in autonomous mode, followed by an opportunity for passengers to exit the vehicle. We are concerned that this requirement could be interpreted as requiring novel equipment and/or technological capabilities, such as an interactive screen in the backseat or a button to indicate a desire to exit the vehicle. We would oppose such requirements and request clarity on how DDOT anticipates this obligation being fulfilled.

Proposed regulations should provide clarity regarding a pathway to deployment and fare collection.

The proposed testing framework will require significant up front and ongoing investment from any company that wishes to test its vehicles in the District. While the value of testing in the District is evident, especially for demonstrating the value of ADS technologies to policy and media stakeholders, the lack of a pathway to full deployment or fare collection raises serious concerns.

- First, without adequate regulatory certainty regarding deployment, companies may be reluctant to invest their limited time and resources into the compliance infrastructure necessary to test in the District when other states offer more comprehensive testing and deployment programs with less complex compliance requirements.
- Second, although we welcome DDOT's proposal to permit the transportation of passengers and goods after six months of safe testing, the inability to collect fares or even test fare collection methods would disincentivize the incredible amount of investment needed to provide transportation services in a new jurisdiction. For investment to be justified, companies must not only be able to gain valuable testing experience and data, but also assess and create new revenue streams.

For both reasons, we strongly recommend that DDOT provide clear guidance about a pathway towards driverless testing and deployment for goods and passengers, as well as fare collection practices. Even if these issues are not resolved in the current rulemaking, providing regulatory clarity may help companies better assess the value of establishing testing operations in the District.

Privately-owned vehicles with Level 3 capabilities should be accounted for and exempted.

As drafted, DDOT's proposed regulations do not envision a pathway to full driverless testing or deployment. However, we are especially concerned that the proposed regulatory framework does not appear to acknowledge the existence of privately-owned Level 3 vehicles. While the entire framework is unworkable for this category of vehicles, the vehicle equipment, law enforcement interaction plan, insurance, and reporting requirements would be most problematic. Given that these vehicles offer significant safety benefits and will become increasingly prevalent in the U.S., we strongly recommend that privately-owned vehicles with Level 3 capabilities be fully excluded from the applicability of these regulations.

Additional program details should be considered and addressed.

- **Insurance coverage:** As currently drafted, the regulations would require a minimum of \$5,000,000 of coverage for automobile liability, commercial general liability, and cyber liability. This requirement is prohibitively high and could deter companies from initiating testing in the District. Private ownership of Level 3 vehicles would be untenable under these

requirements. Insurance coverage for automated vehicles should be in parity with conventional vehicles of the same class.

- **Passenger survey:** We are concerned about the proposed requirement to survey passengers to assess “racial, disability, age, and geographic demographics.” Due to privacy concerns, passengers may not want to participate in a survey that collects such sensitive information. Passengers may also be too busy or uninterested in completing a survey. Although DDOT indicates that it will provide the survey questions, it is unclear how the survey would be administered, whether AV companies would be penalized for nonresponse, or why it should be incumbent on companies to report the results of such sensitive data. As an alternative, companies could be given the option to voluntarily display a QR code that links the passenger to an optional survey that would be fully vetted and administered by DDOT.

In summary, we strongly support DDOT’s efforts to create an AV testing framework in the District of Columbia. However, as noted above, the novel nature of the proposed testing regime—coupled with the lack of a deployment pathway—may make it difficult for companies to justify the significant investments required for reporting, vehicle equipment, and liability coverage. Moreover, we are concerned that the regulations do not appropriately account for privately-owned vehicles with Level 3 capabilities. These vehicles should be exempted.

By embracing existing regulatory and industry standards and approaches, providing more clarity about a pathway towards deployment and fare collection, and addressing other important program details, DDOT can ensure that its AV testing program attracts responsible participants that will prioritize safe, accessible transportation for all. To that end, we are available as a resource should you wish to meet with us or our members. Thank you again for the opportunity to provide comments. Please do not hesitate to reach out with any questions or concerns.

Sincerely,



Sarah Puro
Vice President, Safety and Technology Policy
Alliance for Automotive Innovation