

EPA's review of these data indicate that the Washington Area met the attainment standard in 2019–2021 and the preliminary data from 2022 indicates that the DV for the period of 2020–2022 is consistent with continued attainment of the 2015 ozone NAAQS.

#### IV. Proposed Action

EPA is proposing to determine that the Washington Moderate ozone nonattainment area has attained the 2015 NAAQS for ozone. This determination is based upon certified ambient air monitoring data that show the area has monitored attainment of the 2015 ozone NAAQS based on 2019 to 2021 data. In addition, preliminary<sup>11</sup> ozone data for 2022 that are available in EPA's AQS database, but not yet certified, is consistent with continued attainment of the 2015 ozone NAAQS. As provided in 40 CFR 51.1318, if EPA finalizes this CDD, it would suspend the requirements for such area to submit attainment demonstrations, associated RACM, including RACT, RFP plans, and contingency measures under CAA section 172(c)(9), and any other planning State Implementation Plan (SIP) revision related to attainment of the 2015 ozone NAAQS for this Area, for so long as the area continues to attain the standard. EPA is soliciting public comments on the issues discussed in this document or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to this proposed rule by following the instructions listed in the **ADDRESSES** sections of this **Federal Register**.

#### V. Statutory and Executive Order Reviews

This rulemaking action makes a clean data determination for attainment of the 2015 ozone NAAQS based on air quality and does not impose additional requirements. For that reason, this clean data determination:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions

of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed clean data determination for the Washington Area for the 2015 ozone NAAQS does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the multi-state area, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Ozone, Reporting and recordkeeping requirements.

**Adam Ortiz,**

*Regional Administrator, Region III.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

#### 49 CFR Chapter III

[Docket No. FMCSA–2018–0037]

RIN 2126–AC17

#### Safe Integration of Automated Driving Systems (ADS)-Equipped Commercial Motor Vehicles (CMVs)

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

**ACTION:** Supplemental advance notice of proposed rulemaking (SANPRM).

**SUMMARY:** FMCSA requests public comment about factors the Agency should consider in amending the Federal Motor Carrier Safety Regulations (FMCSRs) to establish a regulatory framework for ADS-equipped CMV operations. FMCSA previously published an advance notice of proposed rulemaking (ANPRM) on May 28, 2019, seeking comments on FMCSRs that may need to be amended, revised, or eliminated to facilitate the safe introduction of ADS-equipped CMVs onto the Nation's roadways. FMCSA continues to consider amendments to the FMCSRs to ensure the safe integration of ADS-equipped CMVs into interstate motor carriers' operations and issues this SANPRM to request additional information.

**DATES:** Comments on this document must be received on or before March 20, 2023.

**ADDRESSES:** You may submit comments identified by Docket Number FMCSA–2018–0037 using any of the following methods:

- *Federal eRulemaking Portal:* Go to <https://www.regulations.gov/docket/FMCSA-2018-2018-0037/document>.

Follow the online instructions for submitting comments.

- *Mail:* Dockets Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.

- *Hand Delivery or Courier:* Dockets Operations, West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.
- *Fax:* (202) 493–2251.

**FOR FURTHER INFORMATION CONTACT:** Mr. David Sutula, Division Chief, Vehicle

<sup>11</sup> The data in AQS is quality-assured data from the states. States have until May 1st of the calendar year following the year in which the data was collected to make any changes without prior notification to EPA. For the 2022 ozone data, States can make changes until the data is “certified” by the state on or before May 1st, 2023.

and Roadside Operations, Office of Carrier, Driver, and Vehicle Safety Standards, FMCSA, 1200 New Jersey Avenue SE, Washington, DC 20590-0001; (202) 366-9209; [david.sutula@dot.gov](mailto:david.sutula@dot.gov). If you have questions on viewing or submitting material to the docket, contact Dockets Operations, (202) 366-9826.

#### SUPPLEMENTARY INFORMATION:

### I. Public Participation and Request for Comments

#### A. Submitting Comments

If you submit a comment, please include the docket number for this SANPRM (FMCSA-2018-0037), indicate the specific section of this document to which your comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to <https://www.regulations.gov/docket/FMCSA-2018-0037/document>, click on this SANPRM, click "Comment," and type your comment into the text box on the following screen.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8.5 by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

FMCSA will consider all comments and material received during the comment period.

#### B. Confidential Business Information

Confidential Business Information (CBI) is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this SANPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this SANPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission that constitutes CBI as "PROPIN" to indicate it contains proprietary information. FMCSA will

treat such marked submissions as confidential under the Freedom of Information Act, and they will not be placed in the public docket for this rulemaking. Submissions containing CBI should be sent electronically to Mr. Brian Dahlin, Chief, Regulatory Evaluation Division, Office of Policy at [brian.g.dahlin@dot.gov](mailto:brian.g.dahlin@dot.gov). At this time, you need not send a duplicate hardcopy of your electronic CBI submissions to FMCSA headquarters. Any comments FMCSA receives not specifically designated as CBI will be placed in the public docket for this rulemaking.

#### C. Viewing Comments and Documents

To view any documents mentioned as being available in the docket, go to <https://www.regulations.gov/docket/FMCSA-2018-0037/document> and choose the document to review. To view comments, click this SANPRM, then click "Browse Comments." If you do not have access to the internet, you may view the docket online by visiting Dockets Operations in Room W12-140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590-0001, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366-9317 or (202) 366-9826 before visiting Dockets Operations.

#### D. Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its regulatory process. DOT posts these comments, without edit, including any personal information the commenter provides, to [www.regulations.gov](http://www.regulations.gov). As described in the system of records notice DOT/ALL 14 -FDMS, which can be reviewed at <https://www.transportation.gov/individuals/privacy/privacy-act-system-records-notices>, the comments are searchable by the name of the submitter.

### II. Legal Basis for the Rulemaking

This SANPRM is based on 49 U.S.C. 31502 (originally enacted as part of the Motor Carrier Act of 1935 (1935 Act)); 49 U.S.C. chapter 311, subchapter III (originally enacted as part of the Motor Carrier Safety Act of 1984 (1984 Act)); and 49 U.S.C. chapter 313 (originally enacted as part of the Commercial Motor Vehicle Safety Act of 1986 (1986 Act)). Both 49 U.S.C. 31502 and 49 U.S.C. chapter 311, subchapter III vest broad rulemaking authority in the Secretary of Transportation (Secretary) to prescribe regulations on CMV safety, which includes the authority to issue regulations governing ADS-equipped CMV operations and operators. In this

regard, section 31502(b) provides, "The Secretary of Transportation may prescribe requirements for—(1) qualifications and maximum hours of service of employees of, and safety of operation and equipment of, a motor carrier; and (2) qualifications and maximum hours of service of employees of, and standards of equipment of, a motor private carrier, when needed to promote safety of operation." Section 31136(a) requires the Secretary of Transportation to "prescribe regulations on commercial motor vehicle safety. The regulations shall prescribe minimum safety standards for commercial motor vehicles." The provision further requires that: "At a minimum, the regulations shall ensure that—(1) commercial motor vehicles are maintained, equipped, loaded, and operated safely; (2) the responsibilities imposed on operators of commercial motor vehicles do not impair their ability to operate the vehicles safely; (3) the physical condition of operators of commercial motor vehicles is adequate to enable them to operate the vehicles safely . . . ; (4) the operation of commercial motor vehicles does not have a deleterious effect on the physical condition of the operators; and (5) an operator of a commercial motor vehicle is not coerced by a motor carrier, shipper, receiver, or transportation intermediary to operate a commercial motor vehicle in violation of a regulation promulgated under this section . . ." (49 U.S.C. 31136(a)(1)–(5)). Additionally, section 31308 gives the Secretary broad authority to "prescribe regulations on minimum uniform standards for the issuance of commercial drivers' licenses [CDLs] and learner's permits by the States . . ." This SANPRM is based primarily on section 31502(b), which authorizes requirements to address the safety of operations and equipment of a motor carrier, and on section 31136(a)(1), which requires provisions to ensure that CMVs are maintained, equipped, and operated safely. Sections 31136(a)(2) through (5) are not immediately relevant to this SANPRM. These statutes provide sufficient legal authority for the Secretary to issue regulations on the operation of ADS-equipped CMVs. Before prescribing regulations, the Secretary must consider their costs and benefits (49 U.S.C. 31136(c)(2)(A) and 31502(d)).

The Administrator of FMCSA is delegated authority under 49 CFR 1.87 to carry out the functions vested in the Secretary by 49 U.S.C. chapters 311, 313, and 315 as they relate to CMV operators, programs, and safety.

### III. Executive Order (E.O.) 12866 (Regulatory Planning and Review) and E.O. 13563 (Improving Regulation and Regulatory Review)

This SANPRM is a not a significant regulatory action under section 3(f) of E.O. 12866, as supplemented by E.O. 13563. Accordingly, the Office of Management and Budget has not reviewed it under these orders.

Executive Orders 12866 and 13563 require agencies to provide a meaningful opportunity for public participation. Accordingly, the Agency has asked commenters to answer a variety of questions to elicit practical information about alternative approaches, including the associated costs and benefits of those approaches, and relevant scientific, technical, and economic data.

### IV. Background

#### A. FMCSA's 2019 ANPRM

FMCSA is responsible for overseeing the safety of CMVs, their drivers, and their operation in interstate commerce. The Agency works with Federal, State, and local enforcement agencies, the motor carrier industry, and interested stakeholders to reduce crashes, injuries, and fatalities involving large trucks and buses. The FMCSRs provide rules to support the safe operation of CMVs, and these rules apply to motor carriers who operate ADS-equipped CMVs. Since 2017, FMCSA has engaged in multiple stakeholder outreach activities and has taken other actions to assist the Agency in understanding issues related to ADS-equipped CMV operations and to consider what amendments to the FMCSRs may be necessary to reduce safety risk associated with the operation of ADS-equipped CMVs. In 2019, FMCSA summarized previous outreach and other actions related to ADS-equipped CMVs in an ANPRM (84 FR 24449, 24450–51, May 28, 2019). The ANPRM also requested public comment about which FMCSRs may need to be amended, revised, or eliminated to facilitate the safe introduction of ADS-equipped CMVs onto the Nation's roadways. In this regard, the ANPRM posed specific questions on the following topics: whether the FMCSRs require a human driver; CDL endorsements; drivers' hours of service rules; medical qualification standards for human operators; distracted driving and monitoring; requirements to ensure safe driving; inspection, repair, and maintenance; roadside inspections; cybersecurity; and confidentiality of shared information. FMCSA extended the comment period to August 28, 2019 (84 FR 37228, Jul. 31, 2019), and the

Agency received 122 comments from individuals and 59 from organizations. Interested parties can view the comments the Agency received at <https://www.regulations.gov/docket/FMCSA-2018-0037/comments>.

In the ANPRM, FMCSA explained that the Department adopted the SAE International's definitions for the levels of driving automation set forth in SAE J3016 ("Taxonomy and Definitions for Terms Related to Driving Automation Systems for On-Road Motor Vehicles"). The six levels of automation range from Level 0 (driver support features but no driving automation) to Level 5 (full driving automation). FMCSA continues to explore the potential risks and safety benefits of Levels 0–3 driving automation and driver assistance technologies. FMCSA, however, does not believe there is a need to revise the FMCSRs to address the integration of Levels 0–3 equipment because a licensed human CMV driver must be seated behind the wheel of these vehicles at all times to perform, or be ready to take over, dynamic driving tasks. The focus of this notice is Level 4 and 5 ADS-equipped CMVs because it is only at those levels that an ADS can control all aspects of the dynamic driving task without any expectation of an intervention from a human driver.

#### B. Departmental and Modal Administration Publications and Actions

Since FMCSA's publication of the ANPRM, the Department has continued engagement with key transportation stakeholders to develop a national policy framework to facilitate the safe integration of ADS technology, as well as other emerging technologies, into the transportation system. Prioritizing safety while supporting the power of innovation to transform transportation for the better are central to the Department's approach, as memorialized in both the National Roadway Safety Strategy (NRSS) and the U.S. DOT Innovation Principles, both released in January 2022.<sup>1</sup> The NRSS outlines the Department's comprehensive approach to significantly reducing serious injuries and deaths with a long-term goal of zero roadway fatalities. The NRSS recognizes the Department's responsibility to use holistic approaches to assess the safety of emerging technologies such as ADS. The NRSS explains that the Department is actively researching test methods, procedures, and criteria to assess long-

term safety benefits of ADS, as well as broader impacts on workers, drivers, and all people who use the Nation's roadways.

Additionally, the NRSS describes actions taken by the Department and DOT modal administrations to enable the safe deployment of new and emerging vehicle technologies. For example, the National Highway Traffic Safety Administration (NHTSA) issued Standing General Order 2021–01 on June 29, 2021, amended on August 5, 2021, that requires identified vehicle manufacturers and operators to report to NHTSA crashes involving vehicles equipped with ADS or certain advanced driver assistance systems.<sup>2</sup> The Standing General Order, which remains in effect until June 2024, enables NHTSA and the Department to obtain timely and transparent notification of real-world crashes associated with vehicles equipped with an ADS and, when appropriate, may lead DOT modal administrations to gather additional data and information or conduct an investigation, when warranted, into emerging safety issues potentially arising from the on-road testing, development, use, or deployment of new driving automation technologies.

The U.S. DOT Innovation Principles will guide the Department's work in supporting transportation innovation.<sup>3</sup> Innovations consistent with these principles should reduce deaths and serious injuries on the roadways. The Department will also encourage partnerships and collaborations through an outcomes-based approach. FMCSA's approach to safety oversight of motor carriers operating ADS-equipped CMVs is consistent with the Department's innovation principles and commits FMCSA to fostering purpose-driven innovation that is technology neutral, and protects the interests of the public, workers, and communities.

### V. Discussion and Supplemental Questions for Response

ADS-equipped CMVs have the potential to produce measurable safety benefits in crashes involving human error. ADS-equipped CMVs, however, present operational characteristics and challenges that may introduce new and complex safety risks that need to be monitored and may require FMCSA to

<sup>2</sup> The Standing General Order, as well as crash report data, is available at <https://www.nhtsa.gov/laws-regulations/standing-general-order-crash-reporting#:~:text=NHTSA%20issued%20the%20General%20Order,are%20free%20of%20defects%20that.>

<sup>3</sup> The Innovation Principles are available at <https://www.transportation.gov/priorities/transformation/us-dot-innovation-principles>.

<sup>1</sup> The NRSS is available at <https://www.transportation.gov/sites/dot.gov/files/2022-02/USDOT-National-Roadway-Safety-Strategy.pdf>.

modify existing and/or adopt new regulatory standards. ADS developers are actively engaged in the development, testing, and limited deployment of ADS-equipped CMVs, and promoting their use in commercial motor carrier operations. Although many ADS-equipped CMVs are being tested in manufacturer or developer owned fleets, many developers and manufacturers are also working to integrate their ADS equipment into existing motor carrier fleets. To mitigate potential safety risks associated with in-service use of ADS-equipped CMVs, FMCSA is developing an appropriate regulatory framework.

In this SANPRM, which is a supplement to the ANPRM published May 28, 2019, FMCSA invites comment on additional questions and those issued in the previous ANPRM, to help FMCSA assess benefits, costs, and other impacts of any potential proposal issued later. If interested parties have new information regarding the questions presented in the 2019 ANPRM, those comments may be submitted in response to this SANPRM. The 2019 ANPRM is available at 84 FR 24449 or at the following link: <https://www.regulations.gov/document/FMCSA-2018-0037-0131>.

#### A. Notification by Motor Carriers Operating Level 4 or 5 ADS-Equipped CMVs

To more effectively oversee Level 4 or 5 ADS-equipped CMV operations, FMCSA is considering establishing a requirement for motor carriers to notify FMCSA that they will operate those CMVs in interstate commerce without a human driver behind the wheel. It may be necessary to require motor carriers operating such vehicles to notify the Agency to facilitate monitoring of those operations and give FMCSA the opportunity to address any unique in-service safety issues involved in the operations of such vehicles, and, if necessary, to target safety interventions to correct those issues. FMCSA therefore seeks comment on (1) regulatory approaches that would enable the Agency to obtain relevant safety information and (2) the current and anticipated size of the population of motor carriers operating ADS-equipped CMVs.

#### Questions

1.1. Should FMCSA require motor carriers operating Level 4 or 5 ADS-equipped CMVs to notify FMCSA before operating those vehicles in interstate commerce without a human driver behind the wheel? If so, what potential methods or procedures should be

established to notify FMCSA of those operations?

1.2. Before operating in interstate commerce, should motor carriers be required to submit information, data, documentation, or other evidence that demonstrates to FMCSA that motor carriers seeking to operate Level 4 or 5 ADS-equipped CMVs have appropriate safety management controls in place to operate the vehicle in accordance with the manufacturer's specifications and with Federal requirements? If so, please describe any recommended approaches including the information to be provided and appropriate techniques for reviewing that information. If available, provide cost estimates for proposed approaches.

1.3. What data should FMCSA collect and maintain regarding Level 4 or 5 ADS-equipped CMVs engaged in interstate transportation? How would such information be used and how would it improve FMCSA's ability to oversee the safe operation of Level 4 or 5 ADS-equipped CMVs?

1.4. What is the current size of the Level 4 or 5 ADS-equipped CMV population? What is the anticipated size of the population within 5 years? What might the size of the population be in 10 years?

1.5. On average, how many days are Level 4 or 5 ADS-equipped CMVs expected to be operational per year?

#### B. Oversight for Remote Assistants

As FMCSA explained in the ANPRM, at Level 5 driving automation, the ADS technology will be expected, by definition, to be capable of performing all driving functions under all conditions. For Level 4 driving automation the ADS technology would be limited to certain operational design domains (ODD). However, when a Level 4 CMV reaches the limit of its ODD, continued operation may require a human driver, either seated behind the wheel or located remotely, to directly control the CMV. (See the ANPRM for more information on operational design domains (84 FR 24449, 24452)). Human drivers who may operate an ADS-equipped CMV from a remote location are generally referred to as *remote drivers*.<sup>4</sup> FMCSA stated in the ANPRM that the FMCSRs applicable to drivers seated behind the wheel of the CMV, such as drug and alcohol use and testing, CDL requirements, hours of service, distracted driving, and medical qualification standards, should continue

<sup>4</sup> The definition of *remote driver* is a driver who is not seated in a position to manually exercise in-vehicle braking, accelerating, steering, and transmission gear selection input devices (if any), but is able to operate the vehicle.

to apply to remote drivers who are able to take control of an ADS-equipped CMV operating on a public road. This remains FMCSA's position.

During FMCSA's continued engagement with stakeholders, the Agency has learned that some motor carriers' operational models may also include the use of a person operating as a remote assistant<sup>5</sup> who would remotely monitor the Level 4 or 5 ADS-equipped CMV. On an as-needed basis, the remote assistant would engage (via a wireless telematics connection) with the vehicle if/when the ADS is unable to perform the dynamic driving task and enters a minimal risk condition due to a system fault, mechanical failure, an event that caused the vehicle to enter into a condition or location outside its ODD, and/or other anomalies that the ADS was unable to negotiate. In such circumstances the remote assistant may enable the ADS to complete the driving task but in all circumstances the on-board ADS would complete or execute the actual vehicle control maneuvers. That is, the remote assistant would not engage in direct control of the vehicle throttle, steering, accelerator, turn signals, lighting, or other vehicle control functions. The remote assistant may also engage with law enforcement personnel, first responders and/or other public officials engaged in traffic and CMV oversight operations. FMCSA seeks information on what requirements, if any, should be imposed on persons performing remote assistant duties for motor carriers operating Level 4 or 5 ADS-equipped CMVs.

#### Questions

2.1. To what extent should the Federal requirements otherwise applicable to CMV drivers (such as hours-of-service limitations, drug and alcohol testing, and physical qualifications), and physical qualifications), also apply to a remote assistant who is not expected to take control of the dynamic driving task of an ADS-equipped CMV operating at Level 4?

2.2. What, if any, aspects of the remote assistant job function may require FMCSA oversight including minimum standards and/or auditing, e.g., training, physical qualifications, and other job-performance related measures? Please provide rationale and evidence for the recommended manner of oversight.

2.3. Are there any qualification requirements that FMCSA should

<sup>5</sup> The definition of *remote assistance* is a human who provides remote information or advice to an ADS-equipped vehicle in driverless operation in order to facilitate trip continuation when the ADS encounters a situation it cannot manage.

consider for remote assistants, such as related experience, *e.g.*, as a CDL holder?

2.4. Are there any specific limitations that should be imposed on the working conditions of remote assistants, such as limitations on the number of ADS-equipped CMVs that a remote assistant is simultaneously responsible for or the number of hours that a remote assistant may work?

2.5. Are there any other considerations that FMCSA should be aware of relating to individuals who may function as remote assistants?

### C. Vehicle Inspection and Maintenance

As indicated in the ANPRM, motor carriers operating Level 4 or 5 ADS-equipped CMVs must comply with existing vehicle inspection and maintenance regulations, including the requirements for pre-trip, post-trip, periodic, and roadside inspections, unless and until those regulations are revised through an FMCSA final rule. Additionally, the ANPRM noted that motor carriers operating Level 4 or 5 ADS-equipped CMVs would necessarily require a means to ensure that the ADS equipment is properly maintained and functioning.

Level 4 or 5 ADS-equipped CMVs have the potential to operate almost continuously, except for re-fueling and maintenance. FMCSA is therefore considering whether additional inspection requirements would be appropriate for Level 4 or 5 ADS-equipped CMVs to reduce overall safety risk associated with this new technology and to account for their extended periods of operation without direct human observation.

At the same time, roadside inspections of Level 4 or 5 ADS-equipped CMVs would be uniquely challenging in the absence of a human driver to engage in the inspection process. For example, during a Level 1<sup>6</sup> roadside inspection, a human driver is generally required to communicate with enforcement officers and perform tasks associated with the inspection, such as testing the braking system, lighting functions, and the fifth wheel movement. The Agency therefore is soliciting comment to better inform its rulemaking proposals in the areas of

inspection and maintenance of ADS-equipped CMVs.

The Commercial Vehicle Safety Alliance (CVSA) recently released a new program and procedures on inspections of ADS-equipped CMVs, which it developed through a multiparty working group.<sup>7</sup> FMCSA requests public comment on the CVSA document,<sup>8</sup> and it welcomes information and comment on activities of other stakeholder groups, including consensus standards bodies, that are considering ADS technology and deployment.

### Questions

3.1. Should Level 4 or 5 ADS-equipped CMVs be subject to pre-trip inspection requirements for their mechanical and ADS components in addition to those specified in 49 CFR 392.7, including those which might necessitate new inspection equipment, before such CMVs are dispatched and after a specified period of operation? If so, what methods should be used to conduct these additional inspection items, what equipment components should be inspected, what documentation should be required, who should be responsible for conducting those inspections and what qualifications or specialized training should be required, and how frequently should the additional inspections be conducted?

3.2. If additional inspections, inspection equipment, or additional qualifications for inspectors are proposed, provide an estimate of the costs associated with such additional requirements including the approximate time to complete the additional inspection requirements, costs of any proposed training if additional inspector requirements are proposed, and the paperwork burden associated with such training.

3.3. What technical barriers exist to conducting conventional roadside inspections (which require interactions with the human driver) of Level 4 or 5 ADS-equipped CMVs and what approaches currently exist or might be developed to remove those barriers?

3.4. What, if any, pre-trip inspection requirements, documentation, and communications capability (for making the results of such inspections available

to law enforcement personnel), should be imposed on motor carriers operating Level 4 and 5 ADS-equipped CMVs as a condition for by-passing conventional roadside inspection stations?

3.5. If Level 4 or 5 ADS-equipped CMVs are not required by the States to undergo roadside inspections during operation, what information should be communicated by the motor carrier and CMV to the State inspectors (*e.g.*, the results of potential alternative pre-trip inspections, and/or the real-time operational status and condition of safety critical systems such as brakes, tires, lighting systems, steering, and ADS components)? Are there other data and performance information that would need to be made available to ensure adequate vehicle maintenance and safe operations?

3.6. What communication systems currently exist that would allow roadside inspection officers to receive information regarding Level 4 or 5 ADS-equipped CMVs, and what information could be transmitted via these systems regarding the mechanical condition of the CMV and other operational documentation, (*e.g.*, shipping documents and origin/destination), while in route?

3.7. Under what safety situations should State inspectors and/or FMCSA receive immediate notification of an unsafe maintenance or operational issue, if any? What data and information would need to be provided in instances such as tow-away crashes or those that disable key operational features of a CMV? Under such safety situations, what return to service process would ensure any maintenance and operation issues have been addressed?

3.8. If Level 4 or 5 ADS-equipped CMVs are not subject to State roadside inspections, how would law enforcement agencies and motor carriers ensure that such CMVs are not used to engage in unlawful activity, *e.g.*, human trafficking, cargo theft?

3.9. Should Level 4 or 5 ADS-equipped CMVs be subject to additional post-trip inspection requirements for the mechanical or ADS components of the CMV?

Issued under authority delegated in 49 CFR 1.87.

**Robin Hutcheson,**  
Administrator.

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<sup>6</sup> See <https://www.cvsa.org/inspections/all-inspection-levels/> for a description of inspection levels.

<sup>7</sup> See <https://www.cvsa.org/news/new-enhanced-cmv-inspection-program/>.

<sup>8</sup> CVSA's "Enhanced CMV Inspection Program for Automated Vehicle Motor Carrier Operations" can be found in the docket for this SANPRM.