Products Liability Law Daily Wrap Up, NHTSA NEWS—MOTOR VEHICLES—U.S. Department of Transportation issues new federal guidance for automated vehicles, (Oct. 5, 2018)

Products Liability Law Daily Wrap Up

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Yesterday, the U.S. Department of Transportation (USDOT) released *Preparing for the Future of Transportation: Automated Vehicles 3.0* (AV 3.0), a new federal guidance advancing the agency's commitment to supporting the safe integration of automated vehicles into the broad multi-modal surface transportation system. AV 3.0 builds upon, but does not replace, the voluntary guidance offered in *Automated Driving Systems 2.0: A Vision for Safety*, which was issued in September 2017 [see *Products Liability Law Daily's* September 13, 2017 analysis] (*NHTSA News Release*, October 4, 2018).

Based on the results of extensive stakeholder engagement, AV 3.0 provides updated voluntary guidance and policy considerations for a range of industry sectors, including manufacturers and technology developers, infrastructure owners and operators, commercial motor carriers, bus transit, and state and local governments. The guidance supports the safe development of automated vehicle technologies by providing new multi-modal safety guidance, reducing policy uncertainty and clarifying roles, and outlining a process for working with USDOT as technology evolves.

Specifically, AV 3.0 updates several USDOT initiatives relating to automated vehicles by:

- Stating that the agency will interpret and 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;
- Identifying and supporting the creation of automation-related voluntary standards developed through organizations and associations, which can be an effective non-regulatory means to advance the integration of automation technologies; and
- Affirming that the USDOT is continuing its work to preserve the ability for transportation safety applications to function in the 5.9 GHz spectrum.

The new federal guidance also announces several upcoming rulemakings and other actions planned for the near future by the USDOT's operating administrations, including:

1. A request for public comment by the National Highway Traffic Safety Administration (NHTSA) on a proposal to streamline and modernize the procedures it will follow when processing and deciding exemption petitions;
2. Introduction by the Federal Motor Carrier Safety Administration (FMCSA) of 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 automated driving systems;
3. Plans by the Federal Highway Administration (FHWA) to update the 2009 Manual on Uniform Traffic Control Devices (MUTCD), taking into consideration new connected and automated vehicle technologies;
4. Research by the Federal Railroad Administration (FRA) to develop and demonstrate a concept of operations, including system requirements, for the use of automated and connected vehicles to improve safety of highway-rail crossings; and
5. Publication by the Federal Transit Administration (FTA) of a five-year research plan on automating bus transit.

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The draft guidance will be published in the Federal Register for public review and comment. More information on the USDOT's work on automated vehicle systems can be found at www.transportation.gov/av.

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