

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking on
Regulations Relating to Passenger
Carriers, Ridesharing, and New
Online-Enabled Transportation Services

Rulemaking 12-12-011

**COMMENTS OF THE AUTONOMOUS VEHICLE INDUSTRY ASSOCIATION ON
ASSIGNED COMMISSIONER'S RULING ON DEVELOPMENT OF NEW DATA
REPORTING REQUIREMENTS FOR AUTONOMOUS VEHICLES DRIVERLESS
DEPLOYMENT PROGRAM**

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Introduction

The Autonomous Vehicle Industry Association (“AVIA”)¹ writes to provide comments on the ruling issued by the California Public Utilities Commission’s Consumer Protection and Enforcement Division’s (“CPED” or “Commission”) for new data reporting requirements under the Commission’s autonomous vehicle (“AV”) programs. As background, AVIA is comprised of the world’s leading technology, ridesharing, trucking, and automotive companies. Our mission is to realize the benefits of autonomous vehicles (i.e., SAE Levels 4 and 5-capable vehicles) and support the safe and expeditious deployment of these technologies. With its broad array of technical expertise and experience in the technology, automobile, and transportation network sectors, AVIA welcomes the opportunity to continue to engage with the Commission in an effort to develop an appropriate framework for AV passenger services.

AVs have tremendous safety, mobility, and environmental benefits, holding the potential to save lives, change the way we move goods and people, and contribute to critical sustainability goals. The National Highway Traffic Safety Administration (“NHTSA”) estimates that nearly 32,000 Americans died in traffic crashes within the first nine months of 2022, after nearly 43,000 traffic deaths occurred in 2021. These numbers represent a 16-year high and an 11% increase in fatalities from 2020, which is the largest annual percentage increase in the nearly 50 years that NHTSA has maintained these statistics. The U.S. Department of Transportation has also reiterated that the overwhelming majority of these fatalities involve at least one human behavioral issue as a contributing factor. For example, one person is killed every 52 minutes due to drunk-driving. The ongoing tragedy on our roadways underscores the need to continue supporting AV deployment. AVs have the potential to reduce fatal traffic crashes because, unlike human drivers, AVs will never drive drunk, drowsy, or distracted—all major contributors to roadway deaths.

AVIA recognizes the value that certain safety-related data about AV operations can provide to improve transparency and enhance public trust in AVs. We are concerned, however, that the proposed data reporting requirements would impose undue burdens on participants in the Commission’s AV Programs without providing meaningful information to the Commission. Further, we believe the Commission’s expedited process for proposing data reporting requirements provides insufficient time for appropriate consideration of such requirements. Due to the growing patchwork of state and federal reporting obligations imposed on AV companies, we believe a more holistic discussion on data reporting would help ensure that data relevant to safety is provided to a centralized source at appropriate intervals.

AVIA welcomes the opportunity to discuss our concerns with the Commission’s proposal, and we have provided responses to the Commission’s questions below.

¹ [www.https://theavindustry.org/](https://theavindustry.org/).

1. What data, if any, that is not currently being collected by CPED is needed to monitor and evaluate the impacts of AV operations in the near term, especially as it pertains to passenger and public safety?

AVIA believes that the data currently collected about AV operations—including by CPED—is sufficient to monitor the safety of AV operations, and that additional data collection is not necessary. Moreover, participants in the Commission’s AV Programs are subject to numerous reporting requirements imposed by the Commission, the California Department of Motor Vehicles (“DMV”), and NHTSA, and the data reported to these entities is either transmitted directly to the Commission or is publicly available. The Commission’s proposed new data reporting requirements would be duplicative in many ways, and otherwise would add to the growing patchwork of asynchronous, burdensome reporting obligations for AV companies.

First, participants in the AV Programs are subject to robust reporting obligations established by the Commission pursuant to Decision 18-05-043 (authorizing AV Pilot Programs) and Decision 20-11-046, as modified by Decision 21-05-017 (authorizing the Phase I AV Deployment Programs). These Decisions established respective frameworks for the AV Pilot Programs and the AV Deployment Programs that are tailored to each program’s unique goals and opportunities.² A critical distinction is that participants in the Commission’s Pilot Programs are prohibited from charging monetary compensation for any rides in AVs conducting testing, whereas Deployment Program participants are authorized to charge fares for AV passenger service. In return, Deployment Program participants are subject to much more detailed reporting obligations about AV operations and trip-level data. Extending the current AV Deployment quarterly reporting requirements to AV Pilot Program participants would significantly disincentivize companies from participating in the Pilot Programs. Without the ability to collect fares and establish customer relationships, the cost of compliance with more onerous reporting requirements would be unduly burdensome for Pilot Program participants and could ultimately interfere with the goals of the program.

In addition to the Commission’s own reporting structure, AV companies are subject to data reporting obligations imposed by the DMV, including requirements to submit collision reports within 10 days and to submit annual reports summarizing disengagements and total miles. Copies of reports required by the DMV must be simultaneously provided to the Commission.³ AV Program participants are also required to report incident data to NHTSA

² In authorizing the AV Pilot Programs, the Commission explained that it “has often chosen to use pilot programs to introduce the public to new technology, gauge interest and glean data and feedback before issuing more permanent decisions.” Pub. Utilities Comm’n of Cal., Decision 18-05-043 at 21 (June 6, 2018), <https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M215/K279/215279920.PDF>. The Commission later explained that “[w]hile testing has provided passengers with opportunities to provide feedback on their riding experience in a free program, the program is at an inflection point where fare service is an appropriate next step to support AVs in passenger service and to expand the public’s understanding of the service.” Pub. Utilities Comm’n of Cal., Decision 21-05-017 at 15 (Nov. 23, 2020), <https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M352/K185/352185092.PDF>.

³ Decision 18-05-043 at 30, 54; Decision 21-05-017 at 103, 132.

pursuant to a 2021 Standing General Order (“SGO”).⁴ The SGO imposes detailed reporting obligations with respect to incidents involving an AV when the vehicle’s automated driving system is engaged. Notably, entities subject to the SGO must submit a report (1) within one calendar day after receiving notice of an incident that results in a fatality or serious injury, or involves a vulnerable road user; (2) within five calendar days after receiving notice of an incident that results in a vehicle tow-away or air bag deployment; and (3) on the 15th of each month following notice of any other incident in which the automated driving system was engaged within 30 seconds immediately prior to the crash through the conclusion of the crash. Information about reported incidents is made publicly available on NHTSA’s website.⁵

Based on the number of detailed reporting requirements explained above, AVIA believes that the Commission’s proposed requirements related to collision reporting would be duplicative and unnecessary. At minimum, we urge the Commission to streamline collision reporting requirements to align with the DMV’s and NHTSA’s reporting obligations.

Finally, we caution against collecting data that could be used to establish performance metrics for AVs. We emphasize that none of the data elements listed in the proposal would be indicative of AV safety or performance. For example, AVs are designed—and, indeed, are required by law—to be capable of achieving a minimal risk condition. The exact circumstances that trigger achievement of a minimal risk condition, however, can vary by company and technology. Regardless of the specific circumstances, achieving a minimal risk condition should not be construed as an “unsafe” action because, by definition, it is an appropriate action to take to achieve a “low-risk operating condition.”⁶ With this in mind, we do not believe that collecting data about minimal risk conditions would be useful for monitoring AV safety.

a. How should CPED define specific metrics (including unplanned stops, law enforcement or first responder interactions, in-lane pickup and drop-off, other metrics included in CPED’s proposal or as may be proposed by parties) for the purposes of data reporting?

AVIA does not recommend defining or using specific metrics that are not already defined under California law. As explained above, we are concerned that defining metrics for purposes of data reporting would risk establishing specific benchmarks for evaluating overall AV performance. As the federal government retains exclusive authority to establish and enforce standards related to the performance of vehicles—including AVs—the Commission should avoid collecting data for the purpose of defining its own metrics to evaluate AV performance.

⁴ Second Amended Standing General Order 2021-01, U.S. DEP’T OF TRANSP., NAT’L HIGHWAY TRAFFIC SAFETY ADMIN. (Apr. 5, 2023),

https://www.nhtsa.gov/sites/nhtsa.gov/files/2023-04/Second-Amended-SGO-2021-01_2023-04-05_2.pdf.

⁵ U.S. DEP’T OF TRANSP., NAT’L HIGHWAY TRAFFIC SAFETY ADMIN., *Standing General Order on Crash Reporting*, <https://www.nhtsa.gov/laws-regulations/standing-general-order-crash-reporting> (last visited June 6, 2023).

⁶ 13 C.C.R. § 227.02(i).

If the Commission instead wishes to define new terms for purposes of clarity and consistency in reporting, we recommend doing so only in accordance with established industry standards and after requesting and obtaining stakeholder feedback on the proposed definitions.

2. What data, if any, is technically and operationally feasible to collect and report? What constraints, if any, are there (technical, operational, or otherwise) that might limit data collection and/or reporting for particular metrics?

The technical and operational feasibility of collecting and reporting certain data elements is specific to individual companies, and there is no industry standard governing the format of data collection. However, we note that not all data elements contemplated under the proposed reporting requirements are collected or retained in a manner that would be feasible to report immediately upon publication of the new reporting requirements. Accordingly, we urge the Commission to delay implementation of any new reporting requirements, as described further below. In addition, we believe that the substance and cadence of such reporting requirements should align with existing reporting frameworks, including those established by NHTSA and the DMV.

3. What cadence is appropriate for data reporting?

a. Should certain data be submitted at different cadences (e.g., collision reports submitted on a weekly basis versus vehicle miles traveled on a monthly basis)?

AVIA believes that data should not be required to be submitted to the Commission more frequently than quarterly, except where copies of reports submitted to other agencies (e.g., collision reports) are transmitted simultaneously to the Commission. Reporting on a quarterly basis provides the Commission ample opportunity to review participants' ongoing AV operations in the state, while giving AV companies time to appropriately classify the data and engage in other processes necessary to report the data in the format requested by the Commission. Requiring more frequent reporting on a monthly basis—in addition to the separate quarterly reports—would be needlessly onerous and disruptive to companies' operations.

4. Is it reasonable to require data collection and reporting to begin immediately upon publishing of the new data reporting requirements?

It would not be reasonable for the Commission to impose the new requirements upon publication, as requiring data collection and reporting to begin immediately would provide no time for AV Program participants to develop the mechanisms necessary to comply with such requirements. Compliance with the proposed requirements is expected to require significant procedural adjustments to how data is collected, maintained, and retained, and at minimum, we strongly urge the Commission to delay implementation of the new requirements until the next

reporting period begins. With the July 1, 2023 reporting deadline approaching and data collection activities already underway for the June 1 - August 31 reporting period (due October 1, 2023), we recommend implementing the requirements no sooner than the September 1 - November 30 reporting period (due January 1, 2024) or the following reporting period (due April 1, 2024) .

Before the start of the reporting period for which any new requirements apply, member companies and other affected parties will need to analyze such requirements, develop appropriate compliance mechanisms (which may involve changes to internal procedures and systems), educate all employees and associated personnel who will be involved in related compliance activities, and ensure readiness for implementation. While entities may have robust processes already in place to comply with existing data reporting obligations, building programs for ensuring compliance with the novel reporting requirements proposed by the Commission would be a significant undertaking.

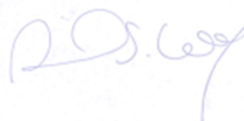
5. Should this data be shared with stakeholders? What constraints are there that might limit sharing with stakeholders?

Given that significant information about AV operations is already available to interested stakeholders today, such as through the SGO reports published by NHTSA, we do not believe that establishing new processes for sharing data with stakeholders is necessary or appropriate. Making additional data publicly available, especially without providing additional information to contextualize such data, risks confusion and potential misinterpretation by other stakeholders and the public. For instance, many members of the public may not understand what a “minimal risk condition” means, and could misconstrue instances in which an AV achieves a minimal risk condition as inherently unsafe occurrences.

AVIA is grateful for the opportunity to continue to work with the Commission to develop a safe and thoughtful approach to the AV Program. We would appreciate the ability to further discuss the issues above and to help develop appropriate regulatory solutions that will allow the public to reap the benefits of AVs in the safest and swiftest manner possible.

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Respectfully submitted,



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