



October 23, 2013

California Air Resources Board
1001 "I" Street
P.O. Box 2815
Sacramento, CA 95812

Subject: Proposed Changes to the ZEV Mandate

To the Members of the Air Resources Board:

On behalf of Tesla Motors, Inc., I am writing to you to express concerns regarding the upcoming proposed changes to the California Zero Emission Vehicle (ZEV) Mandate program. Specifically, and as outlined in greater detail below, the California Air Resources Board is considering changes to the ZEV Mandate that will remove a valuable credit earning opportunity for manufacturers of pure battery electric vehicles. The removal of this credit earning opportunity could set back a program that is only now starting to gain real traction in the original goal of introducing commercially viable ZEVs into the mainstream market. In addition, I understand that Intermediate Volume Manufacturers (IVM) are pressuring the ARB to further dilute the program through a series of concessions that would allow them to skirt their obligations. As a manufacturer dedicated to the development and sustainability of a robust EV market, Tesla takes issue with these proposed changes and calls on the Board to prevent an outcome adverse to the ZEV Mandate.

As you are aware, the ZEV Mandate was established in the 1990's as a means of combating historically catastrophic air quality issues unique to California. At its essence, the ZEV Mandate was intended to encourage manufacturers to innovate, produce and sell compelling motor vehicles that produce no emissions. Through a series of regulatory actions, lawsuits, lobbying and other means, the traditional automobile manufacturing industry was able to substantially dilute the mandate. Only recently has this decline been reversed, with decisive action taken by the ARB to amend model year 2010 through 2017 and model year 2018 through 2025 standards. We strongly urge the ARB to reject requests by manufacturers for further concessions and to hold the line with respect to the current mandate. Tesla is living proof that the goals of the mandate can be achieved, that a robust market for zero emission vehicles exists and that great ZEVs can be built by even the smallest of manufacturers.

I. Fast Refueling Credits: Proposed Changes Favor One ZEV Technology Over Another and Do Not Solve the Underlying Issue

The Fast Refueling (FR) credit provision encourages development of technologies that make the ZEV driving experience similar to that of a traditional internal combustion engine equipped vehicle, where consumers can pull up to a gas station and refuel their car in minutes. Battery swap accomplishes this goal, and Tesla has demonstrated that a Model S can restore its full range in just 90 seconds. Our vehicles satisfy the technical requirements for FR designation and are already certified as such by the ARB. Rolling out such new technology, however, takes time. This roll-out requires building a network of swap stations, which will take time to implement. We understand that the ARB is under pressure to remove Tesla's FR designation potentially due to this delay.

We agree that the spirit of the provision is that the technology is not only present but also accessible and in use by customers. This requirement, that FR be accessible and in use, applies no matter what technology is being considered for FR, whether it be battery electric vehicles or fuel cell vehicles. To prohibit a specific technology from earning credits not only fails to solve the problem, it

discourages research and development in an area that has great potential to transform the ZEV market – the ultimate goal of the ZEV Mandate.

We recommend an alternative to staff's proposal of removing battery swap from FR eligibility. Instead, we propose a technology neutral approach, which addresses the core issue of implementation. Specifically, we propose that manufacturers wishing to receive FR designation submit data on an annual basis to ARB staff showing that their FR technology is both available and in use by customers. ARB staff will then review the submissions and grant fast refueling designations when the goal of the mandate is clearly being fulfilled. Given the nascent stage of this technology we recommend the Board leave FR designation open to ARB's review, and only consider specific criteria once the market potential is more clearly understood.

II. ARB Must Stand Behind the Current ZEV Mandate Requirements

Perhaps even more threatening to the ZEV Mandate are current actions by a group of Intermediate Volume Manufacturers lobbying for more time and greater flexibility with respect to their compliance paths. Manufacturers have already obtained significant concessions in the last modification to the ZEV Mandate through the establishment of a greenhouse gas (GHG) over-compliance option. We strongly believe that further concessions are not justified, and that if ARB yields to this request the IVMs will remain more focused on changing the regulations rather than complying with them. This has been borne out by the IVMs reluctance to build sufficient ZEV balances through either technology introduction or other credit gathering processes already in existence. Instead, the IVMs show a marked preference for merely changing regulations to favor their positions by claiming commercially viable ZEVs are either not possible at this time or using the promise of some vague future market introduction to stave off meeting existing requirements now.

Tesla has proven that commercially viable, long range, battery electric vehicles are possible. Moreover, the Company has demonstrated that a small manufacturer with limited resources can have a very successful ZEV program. We launched the Tesla Roadster for approximately \$125 million and found strong customer reception not only in California but also in the other Section 177 states. This trend continues with the Model S, where the Northeast ZEV states already represent approximately 30% of our California volume. Each quarter we are seeing our total ZEV sales increase, and a growing percentage of these sales are coming from Section 177 states. Tesla has set a clear example that the ZEV Mandate is achievable in its current form for both intermediate and large volume manufacturers.

In summary, we urge the Air Resources Board to 1) accept our alternative solution to the issue of fast refueling implementation and 2) continue your strong support of the ZEV Mandate through regulation that encourages all zero emission technologies on a level playing field, and through demonstrating an unwavering commitment to the ZEV Mandate as enacted and as recently strengthened.

I look forward to our continued dialogue on this matter. In the meantime, if you have any questions or comments regarding this letter, please feel free to contact me.

Sincerely,



Diarmuid O'Connell, Vice President
Corporate & Business Development