



May 28, 2019

Chair Mary Nichols and Members of the Board
California Air Resources Board
1001 I Street
Sacramento, CA 95812

RE: Modified Text and Availability of Additional Documents (15-Day Notice) for the Proposed Alternative Certification Requirements and Test Procedures for Heavy-Duty Electric and Fuel-Cell Vehicle and Proposed standards and Test Procedures for Zero Emission Powertrains

Dear Chair Nichols and Members of the Board:

Tesla appreciates the opportunity to comment on the proposed Zero Emission Powertrain (ZEP Cert) regulation 15-day notice released by California Air Resources Board (CARB) staff on May 13, 2019.

Prior to the February 2019 CARB board meeting, Tesla provided detailed comments supporting provisions that give manufacturer flexibility for monitoring, diagnostic communications and battery testing requirements, requesting the removal of the mandatory recall provision, and clarifying the timeline for voluntary certification and the definition of zero emission powertrain. Tesla greatly appreciates staff's on-going efforts to work with stakeholders to ensure the proposed ZEP Cert regulation continues to enable the growth of heavy-duty zero emission vehicles (ZEVs) in California. Modifications are proposed to be made to many provisions that better reflect the current emerging state of the industry including maintaining the certification as voluntary.

In our comments below, we express support for several of the modifications proposed by staff in the warranty and recall section of Attachment C, and respectfully request one additional modification to the voluntary recall provision.

Warranty and Recall Provisions

While Tesla continues to believe it is not necessary nor appropriate to include mandatory or ordered recall provisions in the ZEP Cert given the zero emissions nature of the technologies subject to certification, we support staff's clarification that a recall is only triggered when component failure renders the vehicle inoperable. This clarification is included throughout Attachment C in the definitions of warrantable condition and ordered recall, among other areas. We also support staff's removal of the influenced recall language.

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However, we respectfully request that CARB revise the term “voluntary recall” to “owner maintenance notification program” or an equivalent phrase. Staff has already indicated they are envisioning this provision as a notification that does not require a recall or actual repair completion rates binding on the vehicle owner – *i.e.* it is a recall in notification only. In fact, as indicated in the ZEP Cert regulation, “voluntary recall” is defined as “...an inspection, repair, adjustment, or modification program voluntarily initiated pursuant to section F and conducted by a manufacturer or its agent or representative to remedy any ~~nonconformity~~ component failure for which direct notification of vehicle owners is necessary [underline and strike-out in original].”

Actual recalls can exact a substantial financial and public relations impact on manufacturers. Therefore, the use of the term “recall” should not be taken lightly. Accordingly, we strongly urge CARB to make the revision below since it is in line with what is envisioned by staff and commensurate with the voluntarily nature of this program entirely initiated by a manufacturer.

- Attachment C, Part II, Section 3. Under definitions, edit the following definition:
~~Voluntary Recall~~ **Owner maintenance notification program** means an inspection, repair, adjustment, or modification program voluntarily initiated pursuant to section F and conducted by a manufacturer or its agent or representative to **inform owners that a** remedy **for** any component failure for which direct notification of vehicle owners is necessary.
- Attachment C, Part II, Section F, G, H, I, and J: Replace term “voluntary recall” with “Owner maintenance notification program.”

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Thank you for your consideration. Tesla appreciates the opportunity to provide feedback on the 15-day notice on the proposed ZEP Cert in advance of its consideration by the CARB Board in June 2019.

Sincerely,

Francesca Wahl
Sr. Policy Advisor

Al Prescott
Deputy General Counsel and
Director of Regulatory Affairs