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COMMENTS OF TESLA, INC ON PROPOSED AMENDMENTS TO THE OPT-IN CERTIFICATION REGULATIONS

Additional submitted attachment is included below.

COMMENTS OF TESLA, INC. ON PROPOSED AMENDMENTS TO THE OPT-IN CERTIFICATION REGULATIONS

Docket No. 26-OIR-04

November 10, 2026

California Energy Commission
Docket Unit, MS-4
715 P Street
Sacramento, CA 95814

Re: Comments on Proposed Emergency Rulemaking Amendments to the Opt-In Certification Regulations - Docket No. 26-OIR-04 (TN# 272980)

Tesla, Inc. ("Tesla") respectfully submits these comments on the proposed amendments to the Opt-In Certification regulations filed September 29, 2026 (the "Proposed Amendments"). Tesla manufactures battery energy storage system ("BESS") equipment deployed in opt-in certified projects and has a direct interest in ensuring that the Commission's requirements are clearly defined, technically sound, and proportionate to the Commission's safety and environmental review objectives.

In these comments, Tesla focuses specifically on four priority provisions in Appendix B that may impose direct obligations on BESS equipment manufacturers: (1) qualified manufacturer safety disclosures; (2) manufacturer failure incident disclosures; (3) worst-case dispersion modeling and toxic air contaminant testing; and (4) transportation incident analyses. For each issue, Tesla identifies the concerning regulatory language, explains the practical and commercial concerns, and provides recommendations to establish clear, workable standards.

1. Manufacturer/Model Identification and Safety-Mechanism Disclosure for All Qualified Manufacturers

Section: Appendix B, Section (b)(1)(E)(ii)

Reference Language

> *"Identify the selected BESS battery technology including the specific manufacturer(s), make, and model. If the manufacturer is not yet finalized, provide a list of qualified manufacturers that are suitable for the project. Provide detailed information about safety mechanisms, including but not limited to fire and explosion prevention devices."*

Potential Issues

As drafted, it is unclear whether the requirement to "[p]rovide detailed information about safety mechanisms" applies to every manufacturer identified on a "list of qualified manufacturers" submitted when equipment procurement is not yet finalized, or only to the manufacturer ultimately selected for the project.

A literal reading requiring detailed safety-mechanism disclosures for every candidate on a qualified-manufacturers list would impose an unreasonable administrative burden on applicants and equipment suppliers alike.

Recommendations

- **Limit Detailed Disclosures to Selected Equipment:** The Commission should clarify that detailed information regarding safety mechanisms is required only for the BESS manufacturer and equipment model ultimately selected for the project.
- **Information Required at Initial Filing:** When equipment selection is not finalized at the time of initial application filing, the applicant's submission should be limited to identifying the candidate qualified manufacturers and equipment models under consideration.

2. Five-Year Manufacturer Failure Incident Disclosure

Section: Appendix B, Section (b)(1)(E)(iii)

Reference Language

> *"A description of any failure incidents involving at least one enclosure within the last 5 years of the selected BESS battery manufacturer at a single facility, and a complete description of the proposed measures to prevent failure incidents for the proposed project."*

Potential Issues

BESS manufacturers can offer diverse product lines designed for different customers and use cases ranging from residential and commercial/industrial applications to large utility-scale systems. The draft regulation leaves key terms undefined - including "failure incident" and "enclosure" - and fails to limit the disclosure to events involving the specific product line, model, or battery chemistry proposed for the proposed project.

Without clear guardrails, this provision could be interpreted to compel public disclosure of any off-normal or component-level event involving any enclosure across a manufacturer's global operating fleet over a five-year period, regardless of whether the event has any relevance to the specific technology proposed for the project.

Recommendations

- **Narrow Incident Scope to Relevant Thermal Runaway Events:** The Commission should define 'failure incident' and narrow the reporting obligation to thermal runaway events resulting in fire that involve installed, stationary BESS enclosures of the same product, model, and battery chemistry proposed for the project.
- **Confidential Treatment:** The Commission should confirm that incident descriptions and root-cause analyses, if available, may be submitted under a request for confidential treatment to protect proprietary technical data. Also, the requirement to describe 'proposed measures to prevent failure incidents' should be deleted.
- **Proposed Regulatory Language:** Tesla proposes revising Section (b)(1)(E)(iii) to read as follows:

"A description of any thermal runaway failure incidents within the last 5 years of the selected BESS battery manufacturer involving at least one installed, stationary BESS enclosure at a single facility of the same product, model, and battery chemistry proposed for the project, which description may be submitted under a request for confidential treatment."

3. Worst-Case Thermal Runaway Dispersion Modeling and Toxic Air Contaminant List

Section: Appendix B, Section (b)(9)(F)(i)-(iv)

Reference Language

"...dispersion modeling of all potential criteria air pollutants and toxic air contaminants (TAC) for a worst-case impact analysis in a potential BESS thermal runaway event using a well-validated model..."

"(ii) Identify the assumed worst-case scenario, including but not limited to the number of cells or modules involved, state of charge, burn duration, exhaust parameters, and emission factors..."

Potential Issues

The draft regulation requires applicants to conduct dispersion modeling for an extensive list of criteria pollutants and toxic air contaminants (TACs) for a "worst-case" thermal runaway scenario using a "well-validated model." However, the regulation does not identify which models the Commission considers acceptable or establish criteria for validating a model.

Additionally, the regulation does not define what constitutes a "worst-case scenario" under subsection (ii), leaving it unclear whether the analysis should reflect empirical, code-recognized testing or an unconstrained, speculative disaster scenario. “Worst-case scenario” should be defined as the conditions used for UL 9540A testing.

Recommendations

- **Establish Clear Criteria and Approved Dispersion Models:** The Commission should either identify approved dispersion models or publish clear criteria for acceptable modeling methodologies, ensuring some standardization across all applications rather than leaving 'well-validated model' undefined.
- **Tie 'Worst-Case Scenario' to UL 9540A Large-Scale Fire Testing:** The Commission should define 'worst-case scenario' under subsection (ii) as the configuration and operating conditions evaluated in for the product’s UL 9540A Large-Scale Fire Test (LSFT). Bounding the worst-case scenario to UL 9540A LSFT data grounds the analysis in standardized, empirical test results and avoids speculative modeling unrealistic failures.
- **Tailor Pollutants to Proposed Chemistry:** The Commission should narrow the required modeling to pollutants reasonably expected to be present based on the proposed battery chemistry and supported by available test data by the manufacturer, if available.

4. BESS Transportation Incident Discussion

Section: Appendix B, Section (b)(10)(H)(i)

Reference Language

"A discussion of actions and procedures that the project owner would implement to reduce the probability of hazardous BESS incidents during transportation to and from the project site and actions to reduce the impact of such incidents (if they occur) to motorists and nearby sensitive receptors."

Potential Issues

The draft regulation fails to define the starting point of "transportation ... to and from the project site." Read broadly, this requirement could be interpreted to mandate a comprehensive risk assessment covering the entire global supply chain - including overseas manufacturing facilities, ocean shipping, international port operations, and intermediate warehousing. Transportation of goods is already regulated by U.S. Department of Transportation and BESS products must be shipped in compliance with existing regulations.

Recommendations

- **Recognize State, Federal, and International Regulatory Compliance:** The Commission should expressly provide that demonstrated compliance with applicable U.S. DOT hazardous materials regulations and relevant shipping standards satisfies transportation safety requirements for all transit of BESS products.
- **Proposed Regulatory Language:** Tesla recommends modifying Section (b)(10)(H)(i) as follows:

"Transportation of BESS products must be in compliance with applicable U.S. Department of Transportation regulations and other applicable federal, state, and international shipping requirements."

Conclusion

Tesla appreciates the Commission's commitment to safety and transparency in the Opt-In Certification Program and welcomes the opportunity to collaborate with Commission staff to refine these regulations. Ensuring that Appendix B requirements are clear, standardized, and grounded in established testing standards will protect public safety while supporting the timely deployment of energy storage resources necessary to meet California's clean energy and reliability goals.

Sincerely,

Stan Greschner

Tesla, Inc.