

**FILED**  
**APR 17 2019**

HEARING BOARD  
BAY AREA AIR QUALITY  
MANAGEMENT DISTRICT

BEFORE THE HEARING BOARD  
OF THE  
BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
STATE OF CALIFORNIA

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In the Matter of the Application of )  
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**TESLA MOTORS, INC.** ) No. 3714  
)  
For A Variance from Regulation 2, Rule 1, ) ORDER GRANTING  
Section 307; Regulation 2, Rule 6, Section ) INTERIM VARIANCE  
307 and Permit Condition #9158 Part 2 )  
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)

The above-entitled matter is an Application for an Interim Variance (“Application”) by Tesla Motors, Inc. (“Applicant”) for relief from the provisions of Regulation 2, Rule 1, Section 307 and Regulation 2, Rule 6, Section 307 of the Bay Area Air Quality Management District (“District”). The Applicant filed the Application on April 2, 2019 and requested relief for the period March 28, 2019, through June 24, 2019, maximum 90 days allowed for an interim variance (the “interim variance period”).

Steven Hill, staff EHS Specialist, appeared on behalf of the Applicant.

Alexander Crockett, Assistant Counsel, appeared for the Air Pollution Control Officer (“APCO”) of the District.

The Clerk of the Hearing Board provided notice of this hearing on the Application in accordance with the requirements of the California Health and Safety Code. The Hearing Board heard the request for interim variance on April 16, 2019.

The Hearing Board provided the public an opportunity to testify at the hearing as required by the California Health and Safety Code, but no one did so. The Hearing Board heard evidence, testimony and argument from the Applicant and the APCO. The APCO opposed the granting of the interim variance.

1 The Hearing Board declared the hearing closed after receiving evidence, testimony and  
2 argument, and took the matter under submission for decision. After consideration of the evidence,  
3 the Hearing Board voted to grant the request for interim variance, as set forth in more detail below:

4 BACKGROUND

5 Tesla Motors, Inc. produces electric passenger cars at its facility located at 45500 Fremont  
6 Boulevard, in Fremont, California (the "Facility"). Processes at the Facility include the manufacture of  
7 component parts, assembly of component parts into a vehicle and the coating of parts and vehicles. The  
8 Facility operates under Permit #20459 issued by the District under District Regulation 2, Rule 6.

9 District Regulation 2, Rule 1, Section 307 and District Regulation 2, Rule 6, Section 307, and  
10 Permit Condition #9158 Part 2 which require Thermal Oxidizer A-1002 be maintained at a temperature  
11 equal to or greater than 1400 degrees Fahrenheit.

12 The thermal oxidizer is designed to meet emission requirements at a design temperature range  
13 of 1120 to 1600 degrees Fahrenheit. Some damage has occurred to Thermal Oxidizer A-1002. Recent  
14 review of the system by an air pollution abatement engineer resulted in a recommendation that the  
15 thermal oxidizer be operated at 1275 degrees Fahrenheit because doing so would reduce potential  
16 damage to the thermal oxidizer while still maintaining the required NOx emissions levels.

17 The District believes that the thermal oxidizer could continue to be operated at 1400 degrees  
18 Fahrenheit for a few more weeks, recognizing that Applicant's long term plan is to replace the A-1002  
19 oxidizer with an A-1007 oxidizer; an application to do so was filed with the District in January 2019.

20 DISCUSSION AND FINDINGS

21 The Hearing Board may grant an interim variance upon finding that the criteria set forth in  
22 Health and Safety Code § 42351 are met (Rule 2.7.c). The sole criteria in Section 42351 is that the  
23 interim variance "be granted for good cause stated in the order granting such a variance." Since the  
24 request is to operate the thermal oxidizer at a temperature within the designed range in order to forestall  
25 potential additional damage to the thermal oxidizer, and since there is no evidence that operating the  
26 thermal oxidizer at a lower temperature will result in excess emissions while it is entirely possible that

1 operation of the oxidizer at 1400 degrees Fahrenheit might result in a oxidizer breakdown that could,  
2 in turn, cause the production of excess emissions, the Hearing  
3 Board is persuaded that there exists good cause for an interim variance, and that the granting of such a  
4 variance is reasonable and will not result in any environmental harm. If this conclusion proves to be  
5 incorrect or if the Hearing Board cannot make all the necessary findings required for issuance of a  
6 variance at the subsequent regular variance hearing, then the District may take enforcement action.

7 THEREFORE, THE HEARING BOARD ORDERS:

8 An interim variance from Regulation 2, Rule 1, Section 307 and Regulation 2, Rule 6,  
9 Section 307 of the Bay Area Air Quality Management District Rules and Regulations, to the extent  
10 that it requires compliance with Permit Condition #9158 Part 2 of the Facility's permit to operate,  
11 is hereby granted for the period March 28, 2019 through June 24, 2019 or until the Hearing Board  
12 makes a determination on the Variance application, whichever occurs first.

13 Moved by: Peter Y. Chiu, M.D., P.E.

14 Seconded by: Barbara Toole O'Neil

15 AYES: Peter Y. Chiu, M.D., P.E., Barbara Toole O'Neil and Valerie J. Armento Esq.

16 NOES: None

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April 17, 2019

20 Valerie J. Armento, Esq., Chair

BEFORE THE HEARING BOARD  
OF THE  
BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
STATE OF CALIFORNIA

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HEARING BOARD  
BAY AREA AIR QUALITY  
MANAGEMENT DISTRICT

In the Matter of the Application of  
TESLA MOTORS, INCORPORATED

) Docket No.: 3714

) CERTIFICATE OF SERVICE

) For A Variance from Regulation 2, Rule 1,  
) Section 307; Regulation 2, Rule 6, Section  
) 307 and Permit Condition #9158 Part 2

STATE OF CALIFORNIA )

City and County of San Francisco )

) ss.

I, Marcy Hiratzka, do hereby certify under penalty of perjury as follows:

That I am a citizen of the United States, over the age of eighteen years and not a party to the above entitled action; that I served a true copy of the attached Order Granting Interim Variance on:

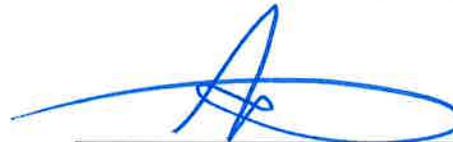
Steve Hill, Staff EHS Specialist Tesla Motors, Inc. 45500 Fremont Blvd Fremont, CA 94538	Yesenia Villasenor, Managing Counsel, EHS Tesla Motors, Inc. 45500 Fremont Blvd Fremont, CA 94538
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by depositing same in the United States certified mail, return receipt requested, and via email, on April 17, 2019; and on

Alexander Crockett, Assistant Counsel  
Bay Area Air Quality Management District  
375 Beale Street, Suite 600  
San Francisco, California 94105

by hand-delivery deposit of same in the in-box of the District Counsel's office, on April 17, 2019

DATED: April 17, 2019



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Marcy Hiratzka  
Clerk of the Boards