



U.S. Department
of Transportation
**National Highway
Traffic Safety
Administration**

Administrator

1200 New Jersey Avenue SE
Washington, DC 20590

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Al Prescott
Deputy General Counsel
Tesla, Inc.
3550 Deer Creek Rd.
Palo Alto, CA 94304

NEF-104aa
DP20-001

JAN 29 2020

Dear Mr. Prescott:

This letter is to inform you that the Office of Defects Investigation (ODI) of the National Highway Traffic Safety Administration (NHTSA) has opened Defect Petition DP20-001 to evaluate a petition requesting an investigation of alleged sudden unintended acceleration incidents in model year (MY) 2012 through 2020 Tesla Model 3, Model S and Model X vehicles manufactured by Tesla, Inc., and to request information to assist us in our evaluation.

On December 19, 2019, the Office of Defects Investigation (ODI) received a defect petition by email requesting a defect investigation of alleged sudden unintended acceleration in all Tesla Model S, Model X, and Model 3 vehicles. In support of his request, the petitioner cited 127 consumer complaints to NHTSA involving 123 unique vehicles. The reports include 110 crashes and 52 injuries. Copies of the petition documents and consumer complaints have been provided to you separately.

Unless otherwise stated in the text, the following definitions apply to these information requests:

- **Subject vehicles:** all MY2012 through 2020 Tesla Model 3, Model S and Model X vehicles manufactured for sale or lease in the United States, including, but not limited to, the District of Columbia, and current U.S. territories and possessions.
- **Subject complaints:** the NHTSA complaints (VOQs) referenced in the petition and previously sent to Tesla ("DP20-001 VOQs").
- **Alleged defect:** the petition alleges that the subject vehicles contain a defect that may result in sudden unintended acceleration.
- **Tesla:** Tesla, Inc. and all of its past and present officers and employees, whether assigned to its principal offices or any of its field or other locations, including all of its divisions, subsidiaries (whether or not incorporated) and affiliated enterprises and all of their



headquarters, regional, zone and other offices and their employees, and all agents, contractors, consultants, attorneys and law firms and other persons engaged directly or indirectly (e.g., employee of a consultant) by or under the control of Tesla (including all business units and persons previously referred to), who are or, in or after January 10, 2010, were involved in any way with any of the following related to the alleged defect in the subject vehicles:

- a. Design, engineering, analysis, modification or production (e.g. quality control);
 - b. Testing, assessment or evaluation;
 - c. Consideration, or recognition of potential or actual defects, reporting, record-keeping and information management, (e.g., complaints, field reports, warranty information, part sales), analysis, claims, or lawsuits; or
 - d. Communication to, from or intended for zone representatives, fleets, dealers, or other field locations, including but not limited to people who have the capacity to obtain information from dealers.
- **Document:** "Document(s)" is used in the broadest sense of the word and shall mean all original written, printed, typed, recorded, or graphic matter whatsoever, however produced or reproduced, of every kind, nature, and description, and all non-identical copies of both sides thereof, including, but not limited to, papers, letters, memoranda, correspondence, communications, electronic mail (e-mail) messages (existing in hard copy and/or in electronic storage), faxes, mailgrams, telegrams, cables, telex messages, notes, annotations, working papers, drafts, minutes, records, audio and video recordings, data, databases, other information bases, summaries, charts, tables, graphics, other visual displays, photographs, statements, interviews, opinions, reports, newspaper articles, studies, analyses, evaluations, interpretations, contracts, agreements, jottings, agendas, bulletins, notices, announcements, instructions, blueprints, drawings, as-builts, changes, manuals, publications, work schedules, journals, statistical data, desk, portable and computer calendars, appointment books, diaries, travel reports, lists, tabulations, computer printouts, data processing program libraries, data processing inputs and outputs, microfilms, microfiches, statements for services, resolutions, financial statements, governmental records, business records, personnel records, work orders, pleadings, discovery in any form, affidavits, motions, responses to discovery, all transcripts, administrative filings and all mechanical, magnetic, photographic and electronic records or recordings of any kind, including any storage media associated with computers, including, but not limited to, information on hard drives, floppy disks, backup tapes, and zip drives, electronic communications, including but not limited to, the Internet and shall include any drafts or revisions pertaining to any of the foregoing, all other things similar to any of the foregoing, however denominated by Tesla, any other data compilations from which information can be obtained, translated if necessary, into a usable form and any other documents. For purposes of this request, any document which contains any note, comment, addition, deletion, insertion, annotation, or otherwise comprises a non-identical copy of another document shall be treated as a separate document subject to production. In all cases where original and any non-identical copies are not available, "document(s)" also means any identical copies of the original and all non-identical copies thereof. Any document, record, graph, chart, film or photograph originally produced in color must be provided in color. Furnish all documents whether verified by Tesla or not. If a document

is not in the English language, provide both the original document and an English translation of the document.

- **Other Terms:** To the extent that they are used in these information requests, the terms “claim,” “consumer complaint,” “dealer field report,” “field report,” “fire,” “fleet,” “good will,” “make,” “model,” “model year,” “notice,” “property damage,” “property damage claim,” “rollover,” “type,” “warranty,” “warranty adjustment,” and “warranty claim,” whether used in singular or in plural form, have the same meaning as found in 49 CFR 579.4.

In order for my staff to evaluate the alleged defect, certain information is required. Pursuant to 49 U.S.C. § 30166, please provide numbered responses to the following information requests. Insofar as Tesla has previously provided a document to ODI, Tesla may produce it again or identify the document, the document submission to ODI in which it was included and the precise location in that submission where the document is located. When documents are produced, the documents shall be produced in an identified, organized manner that corresponds with the organization of this information request letter (including all individual requests and subparts). When documents are produced and the documents would not, standing alone, be self-explanatory, the production of documents shall be supplemented and accompanied by explanation.

Please repeat the applicable request verbatim above each response. After Tesla’s response to each request, identify the source of the information and indicate the last date the information was gathered.

1. State, by model and model year, the number of subject vehicles Tesla has manufactured for sale or lease in the United States. Separately, for each subject vehicle manufactured to date by Tesla, state the following:
 - a. Vehicle identification number (VIN);
 - b. Model;
 - c. Model year;
 - d. ADAS hardware version (e.g., HW1, HW2, HW2.5, HW3);
 - e. Drivetrain (e.g., rear-wheel drive, all-wheel drive)
 - f. Date of manufacture;
 - g. Date warranty coverage commenced; and
 - h. The State in the United States where the vehicle was originally sold or leased (or delivered for sale or lease).

Provide the table in Microsoft Access 2010, or a compatible format, entitled “PRODUCTION DATA.”

2. Provide a table summarizing the following information for each of the incidents alleged in the subject complaints:
 - a. VOQ number;
 - b. Model name;
 - c. Model year;

- d. Vehicle identification number (VIN);
- e. Incident date and time;
- f. Alleged crash (yes/no);
- g. Firmware version at the time of the incident;
- h. Stopping mode state at the time of the incident (Creep, Hold, or Roll);
- i. Accelerator pedal response mode at the time of the incident (Chill, Standard, or Sport);
- j. Event data recorder (EDR) record related to the alleged incident (yes/no);
- k. Video or image files related to the alleged incident (yes/no);
- l. Tesla communication with the customer related to the alleged incident (yes/no);
- m. State whether Tesla performed physical inspection/diagnostics of the vehicle after the alleged incident (yes/no);
- n. State whether Tesla performed remote review/diagnostics of the vehicle after the alleged incident (yes/no);
- o. State whether Tesla identified any faults in any vehicle accelerator pedal position sensor, motor control system, brake system or other components that may have caused or contributed to the alleged incident and, if so, identify all relevant systems, components and fault codes;
- p. State whether the vehicle received any repairs or software updates to correct any accelerator pedal sensor, motor control or brake system faults that could be related to the alleged incident and, if so, identify the affected system/component; and
- q. A short summary of Tesla's assessment of the cause of the incident described in the complaint.

Provide the table in Microsoft Access 2010, or a compatible format, entitled "DP20-001_SUBJECT_COMPLAINT_SUMMARY_TABLE."

- 3. Provide copies of all documents relating to items 2.j through 2.p of Request No. 2 that have not been previously provided to NHTSA (e.g., copies of EDR reports, video files, communications with the consumer, reports related to vehicle inspections, and data reviewed as part of remote review/diagnostics). Organize the documents in separate folders by VOQ number.
- 4. For each subject complaint alleging a crash for which EDR data was not obtained by Tesla and for which evidence of a crash event on the alleged incident date is present based on available data log indicators (e.g., airbag deployment, Restraint Control Module algorithm wakeup, CrashEvent alert, edrEvent alert, or frunk open with car in Drive), provide the following information:
 - a. Identify the estimated time of the crash using vehicle log data; and
 - b. Provide 15 seconds of pre-crash data and 15 seconds of post-crash log data in Excel file format using the data elements defined by ODI in a separate submission.
- 5. Provide the following information about the brake systems of the subject vehicles:
 - a. Description of the system and major components, including a detailed description of the source of power assist;
 - b. Vehicle deceleration as a function of brake pedal effort for each level of motor torque allowed by subject vehicle brake override control logic; and

- c. The brake pedal efforts required to hold a vehicle stationary for each level of motor torque allowed by subject vehicle brake override control logic.

Legal Authority for This Request

This letter is being sent to Tesla pursuant to 49 U.S.C. § 30166, which authorizes NHTSA to conduct any investigation that may be necessary to enforce Chapter 301 of Title 49 and to request reports and the production of things. It constitutes a new request for information.

Civil Penalties

Tesla's failure to respond promptly and fully to this letter could subject Tesla to civil penalties pursuant to 49 U.S.C. § 30165 or lead to an action for injunctive relief pursuant to 49 U.S.C. § 30163. (Other remedies and sanctions are available as well.) The Vehicle Safety Act, as amended, 49 U.S.C. § 30165(a)(3), provides for civil penalties of up to \$22,329 per violation per day, with a maximum of \$111,642,265 for a related series of daily violations, for failing or refusing to perform an act required under 49 U.S.C. § 30166. *See* 49 CFR 578.6 (as amended by Fixing America's Surface Transportation Act (the "FAST Act"), Pub. L. 114-94, § 24110(a)(2), 129 Stat. 1312 (Dec. 4, 2015)). This includes failing to respond completely, accurately, and in a timely manner to ODI information requests.

If Tesla cannot respond to any specific request or subpart(s) thereof, please state the reason why it is unable to do so. If on the basis of attorney-client, attorney work product, or other privilege, Tesla does not submit one or more requested documents or items of information in response to this information request, Tesla must provide a privilege log identifying each document or item withheld, and stating the date, subject or title, the name and position of the person(s) from, and the person(s) to whom it was sent, and the name and position of any other recipient (to include all carbon copies or blind carbon copies), the nature of that information or material, and the basis for the claim of privilege and why that privilege applies.

Confidential Business Information

All business confidential information must be submitted directly to the Office of Chief Counsel as described in the following paragraph and should not be sent to this office. In addition, do not submit any business confidential information in the body of the letter submitted to this office. Please refer to DP20-001 in Tesla's response to this letter and in any confidentiality request submitted to the Office of Chief Counsel.

If Tesla claims that any of the information or documents provided in response to this information request constitute confidential commercial material within the meaning of 5 U.S.C. § 552(b)(4), or are protected from disclosure pursuant to 18 U.S.C. § 1905, Tesla must submit supporting information together with the materials that are the subject of the confidentiality request, in accordance with 49 CFR Part 512, as amended, to the Office of Chief Counsel (NCC-100), National Highway Traffic Safety Administration, Room W41-326, 1200 New Jersey Avenue, S.E., Washington, D.C. 20590. Tesla is required to **submit two copies of the documents containing allegedly confidential information (except only one copy of blueprints) and one**

copy of the documents from which information claimed to be confidential has been deleted.

Please remember that the phrase "ENTIRE PAGE CONFIDENTIAL BUSINESS INFORMATION" or "CONTAINS CONFIDENTIAL BUSINESS INFORMATION" (as appropriate) must appear at the top of each page containing information claimed to be confidential, and the information must be clearly identified in accordance with 49 CFR 512.6. If you submit a request for confidentiality for all or part of your response to this IR, that is in an electronic format (e.g., CD-ROM), your request and associated submission must conform to the new requirements in NHTSA's Confidential Business Information Rule regarding submissions in electronic formats. *See* 49 CFR 512.6(c) (as amended by 72 Fed. Reg. 59434 (October 19, 2007)).

If you have any questions regarding submission of a request for confidential treatment, contact Daniel Rabinovitz, Trial Attorney, Office of Chief Counsel at daniel.rabinovitz@dot.gov or (202) 366-8534.

Due Date

Tesla's response to this letter, in duplicate, together with a copy of any confidentiality request, must be submitted to this office by March 11, 2020. Tesla's response must include all non-confidential attachments and a redacted version of all documents that contain confidential information. If Tesla finds that it is unable to provide all of the information requested within the time allotted, Tesla must request an extension from Jeff Quandt at (202) 366-5207 no later than five business days before the response due date. If Tesla is unable to provide all of the information requested by the original deadline, it must submit a partial response by the original deadline with whatever information Tesla then has available, even if an extension has been granted.

Please send email notification to Ajit Alkondon at ajit.alkondon@dot.gov and to ODI_IRresponse@dot.gov when Tesla sends its response to this office and indicate whether there is confidential information as part of Tesla's response.

If you have any technical questions concerning this matter, please call Ajit Alkondon of my staff at (202) 366-3565.

Sincerely,



Stephen A. Ridella, Ph.D.

Director

Office of Defects Investigation

Enclosure 1: Petition