



June 4, 2018

David Lanier
Secretary, California Labor & Workforce Development Agency
800 Capitol Mall
Sacramento, CA 95814

Mary Nichols
Chair, California Air Resources Board
1001 "I" Street
Sacramento, CA 95814

Dear Secretary Lanier and Chair Nichols:

The Alliance of Automobile Manufacturers (Alliance) is writing to submit comments on the Concept Paper: Potential Procedures for Certifying Manufacturers' Fair Treatment of Workers for Clean Vehicle Rebate Project Eligibility. The Alliance of Automobile Manufacturers is a trade association of 12 car and light truck manufacturers including BMW Group, FCA US LLC, Ford Motor Company, General Motors, Jaguar Land Rover, Mazda, Mercedes-Benz USA, Mitsubishi Motors, Porsche Cars North America, Toyota, Volkswagen Group of America, and Volvo Car USA.

Historically, the Alliance has strongly supported the Clean Vehicle Rebate Program (CVRP). We believe it is a critical component of a successful Zero Emission Vehicle (ZEV) program, which has an ambitious objective of 5 million ZEVs by 2030.

The member companies of the Alliance unequivocally support fair and responsible treatment of their workers. Our member companies practice this ethic throughout the world. However, there are a number of important practical issues which require clarification and adjustment. Our immediate objective is to avoid disruption of the CVRP program and the confusion to potential ZEV consumers caused by such disruption.

The Alliance supports the provisional certification concept to avoid disruption of the ZEV marketplace. Additionally, the Alliance is encouraged by the limited application of the proposal to facilities that assemble ZEV vehicles sold in California. The Alliance's concerns are:

Provisional certification

- Generally speaking, we seek clarity as to what is exactly required for a manufacturer to receive provisional certification and under what circumstances certification can be denied. Given the stated goal of this provision, that clarity is essential for manufacturers and customers alike.
- The draft requires manufacturers to generally assert that they are in compliance with applicable local, state, and national laws and treaties with regards to the specified labor issues. Minor, technical violations occur for any company, and it is our understanding that the intent of the language is not to disqualify a manufacturer for any such violation. We also read the language as requiring an assertion of compliance with *existing* agreements and commitments, not as applying California law where it would not otherwise be applicable. We respectfully request clarification on these points.

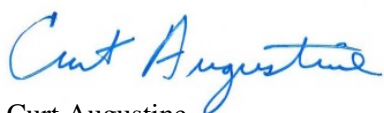
- Manufacturers should not be required to submit information where disclosure of that information is prohibited by local, state, or national laws (such as German and/or EU privacy and/or data protection laws). Similarly, there should not be mandatory public disclosure of information that is proprietary, consists of confidential business information, or if disclosure would violate antitrust laws. To the extent that the proposal is ambiguous on these two points, we respectfully request that the proposal be modified to address these issues.
- Although due process protections are mentioned in certain places in the draft, the actual language remains unclear as to the right to appeal any denial. We would ask that traditional notions of due process apply to both the provisional and full certification provisions.
- As the proposal appears to also require reporting of information from plants outside of California, the general terminology used may be confusing or lead to unintended consequences when applied internationally. For example, requiring a list of “charges by a government agency” could easily require a list of mere allegations. Given the due process issues involved, only those charges, citations, etc., which have been finally adjudicated should be required to be disclosed.
- Regarding the requirement for a senior company official to sign the application and form under penalty of perjury, the attestation must be done by an official in the United States based upon the official’s information and belief so as not to create international issues or confusion.
- With regard to requiring a manufacturer to provide “reasonable access”, that provision should not be used to allow warrantless searches of facilities, or disclosure of confidential personnel information without appropriate safeguards that respect the privacy of personal information, trade secrets, and confidential business information. Clarification of this provision is necessary to prevent confusion and misunderstanding in the future as well as prevent any allegations that allowing access to certain information violated various international laws. One possible solution is to replace “reasonable access” with “reasonable disclosure” to achieve the same objective.
- With respect to the public disclosure and release of information, we request clarity on the ability to redact personal identifiable information (PII) of employees so as to avoid public disclosure or posting of PII of an employee.
- We also believe it is important to clarify that the 90-day review by the Labor Secretary does not harm consumers by delaying the availability of CVRP funds. Delays in funding only harm consumers who may rely upon CVRP funds for a down payment or other expense.

Full certification

- As a threshold matter, we believe that annual recertification would create too much uncertainty for consumers with regard to CVRP eligibility. At a minimum, such certification should be done biennially.
- If adopted by the Legislature, the experiences over the next two years will provide valuable insight into what a “full certification” program should look like. While the Alliance would like to be part of those discussions, we also believe it is premature to dictate the criteria of a permanent program before a provisional program is even authorized.

If you have any questions or comments regarding the Alliance position, please contact me at (916) 447-7315 or at caugustine@autoalliance.org. Thank you for your consideration.

Sincerely,



Curt Augustine
Senior Director of Policy and Government Affairs
Alliance of Automobile Manufacturers