State of California
AIR RESOURCES BOARD

Resolution 01-49

November 15, 2001

Agenda Item No.: 01-9-1

WHEREAS, sections 39600 and 39601 of the Health and Safety Code authorize the Air Resources Board ("ARB" or "Board") to adopt standards, rules and regulations and to do such acts as may be necessary for the proper execution of the powers and duties granted to and imposed upon the Board by law;

WHEREAS, section 41514.9 of the Health and Safety Code directs the Board to adopt a certification program and uniform emission standards, by January 1, 2003, for electrical generation technologies that are exempt from air pollution control or air quality management districts' (districts) permit requirements;

WHEREAS, section 41514.9 of the Health and Safety Code addresses electrical generation that is located near the place of use and defines these sources as "distributed generation" (DG);

WHEREAS, section 41514.9 of the Health and Safety Code requires that uniform emission standards become effective no later than January 1, 2003, and reflect the best performance achieved in practice by existing DG technologies that are exempt from district permits;

WHEREAS, section 41514.9 of the Health and Safety Code also requires that by the earliest practicable date, the emission standards be made equivalent to the level determined by the ARB to be the best available control technology for permitted central station power plants in California;

WHEREAS, section 41514.9 of the Health and Safety Code requires emission standards be expressed in pounds per megawatt hour;

WHEREAS, the DG certification program requirements and emission standards were discussed at public consultation meetings on November 8, 2000; July 11, 2001; and July 17, 18, 19, 2001;

WHEREAS, the ARB staff worked closely with affected industry, the districts, and the public to develop certification program requirements and uniform emission standards for DG technologies;

WHEREAS, the ARB staff is proposing adoption of new sections 94200-94214, in article 3, subchapter 8, chapter 1, division 3 of title 17, California Code of Regulations, that creates a certification program and establishes uniform emission standards for DG technologies that are exempt from districts' permit requirements.

WHEREAS, the ARB staff has prepared a staff report entitled *Initial Statement of Reasons for the Proposal to Establish a Distributed Generation Certification Program* (Initial Statement of Reasons) which presents the ARB staff's proposed certification program requirements and emission standards (identified as Attachment A to this Resolution), and discusses potential environmental impacts and cost impacts to the affected industry and state government for implementation and compliance with the proposed requirements;

WHEREAS, the California Environmental Quality Act and Board regulations require that no project which may have significant adverse environmental impacts be adopted as originally proposed if feasible alternatives or mitigation measures are available to reduce or eliminate such impacts;

WHEREAS, a public hearing and other administrative proceedings have been held in accordance with the provisions of chapter 3.5 (commencing with section 11340), part 1, division 3, title 2 of the Government Code;

NOW, THEREFORE, BE IT RESOLVED that, after consideration of the ARB staff report, written comments, and public testimony it has received, the Board finds that:

The Legislature, in passing Senate Bill 1298, intended, among other things, that reliance on distributed generation technologies, rather than central station powerplants, for power does not result in negative impacts on air quality greater than those caused by power generation at central station powerplants, and shall be required to operate at emission levels equivalent, that is, equal to, emission levels imposed upon central station powerplants by the earliest practical date;

Proposed regulation title 17, CCR, sections 94200-94214 establishing statewide requirements and uniform emission standards for certifying electrical generation technologies in California that are exempt from a district's permit requirements, as modified, meets the requirements of Health and Safety Code section 41514.9;

The economic impacts of the proposed certification program requirements have been analyzed as required by California law, and the conclusions and supporting documentation for this analysis are set forth in the Initial Statement of Reasons;

Because distributed generation technologies are emerging technologies and have only recently been introduced into the market, there is limited economic information currently available regarding the cost to develop, manufacture and market such technologies;

A comprehensive review of the rate of technological advancement of emerging distributed generation technologies is necessary to determine the continued feasibility of attainment of the emission standards by 2007. The results of the staff technology review required under section 94203(d) of the proposed regulation will be reported to the Board by July 2005. The staff shall include in its report conclusions regarding the in-use application of combined heat and power, techniques for calculating the benefits of combined heat and power, and the feasibility and cost of attainment of the 2007 emission standards;

The ARB staff will coordinate with districts' staff to ensure distributed generation technologies registered under ARB's Portable Equipment Registration Program (PERP) are used in a manner that satisfy the requirements of PERP;

The proposed DG certification program requirements and emission standards will reduce exposures in all communities to emissions from electrical generation technologies that are exempt from district permit requirements;

No alternatives considered or that have otherwise been identified and brought to the attention of the ARB staff would be more effective at carrying out the requirements in section 41514.9 of the Health and Safety Code, or be as effective and less burdensome to the affected private persons and businesses than the proposed certification program requirements;

The data obtained by ARB staff and summarized in the ARB Staff Report provides substantial evidence that the determination that the emission standards set for January 1, 2003 reflect the best performance achieved in practice by existing electrical generating technologies; and

Reliance on information received through an ARB survey of manufacturers of electrical generation technologies at a workgroup meeting was a reasonable methodology to determine a time when such technologies can meet an emission standard equivalent to best available control technology for central station power plants.

BE IT FURTHER RESOLVED that pursuant to the requirements of the California Environmental Quality Act and the Board's regulations, the Board further finds that:

Because the creation of the certification program will establish emission standards, the approval of that program involves the adoption of standards to be used in a regulatory program for the protection and enhancement of ambient air quality in California and therefore is within the ARB's certified regulatory program exemption.

No credible evidence of significant adverse environmental impacts from the proposed certification requirements has been submitted.

BE IT FURTHER RESOLVED that, accordingly, the Board hereby approves sections 94200-94214, in article 3, subchapter 8, chapter 1, division 3 of title 17, California Code of Regulations, as set forth in Attachment A hereto, with the modifications described in Attachment B hereto.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to adopt sections 94200-94214, title 17, California Code of Regulations, after making the modified regulatory language available for public comment for a period of 15 days, provided that the Executive Officer shall consider such written comments regarding the modification as may be submitted during this period, shall make modifications as may be appropriate in light of the comments received, and shall present the regulations to the Board for further consideration if determined warranted.

I hereby certify that the above is a true and correct copy of Resolution 01-49, as adopted by the Air Resources Board.

Marie Kavan

Marie Kavan, Clerk of the Board

Rec'd By
Office of the Secretary

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Resources Agency of California

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Identification of Attachments to the Board Resolution

Attachment A: Proposed Regulation to Establish a Distributed Generation Certification Program as Noticed on September 28, 2001

Attachment B: Staff's Suggested Modifications to the September 28, 2001, Proposed Regulation

State of California
Environmental Protection Agency
AIR RESOURCES BOARD

Notice of Decision and
Response to Significant Environmental Issues

Item:	Distributed Generation Certification Program and a Guidance for the Permitting of Electrical Generation Technologies
Approved By:	Resolution 01-49
Adopted by:	Executive Order G-02-041
Agenda Item:	01-9-1
Public Hearing Date:	November 15, 2001
Issuing Authority:	Air Resources Board
Comment:	No comments were received identifying any significant environmental issues pertaining to this item. The Staff Report identified no adverse environmental effects.
Response:	N/A
Certified:	Artavia M. Edwards, Manager Board Administration & Regulatory Coordination Unit
Date:	2 July 2002

Office of the Secretary
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