State of California
AIR RESOURCES BOARD

Resolution 06-29

October 19, 2006

Agenda Item No.: 06-9-5

WHEREAS, sections 39600 and 39601 of the Health and Safety Code authorize the Air Resources Board (ARB or the 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, enacted in 2000 (stats 2000 ch 741 (SB 1298)), directs the Board to adopt a certification program and uniform emissions standards for electrical generation technologies that are exempt from the permit requirements of air pollution control or air quality management districts (districts);

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 by the earliest practicable date, the emission standards be made equivalent to the level determined by ARB to be the best available control technology for permitted central station power plants in California;

WHEREAS, in accordance with section 41514.9 of the Health and Safety Code, in 2001 the Board approved the adoption of sections 94200-94214, title 17, California Code of Regulations, which establish a DG Certification Program providing for certification of technologies exempt from district permitting, emission limits for DG Units covered by the program, and a fee schedule to cover the costs of administering the program;

WHEREAS, section 94203, title 17, California Code of Regulations, established interim emission standards for applicable DG Units starting January 1, 2003, and more stringent permanent emission standards for applicable DG Units starting January 1, 2007 and were equivalent to the level determined by the Board to be the best available control technology for permitted central station power plants in California; the Board found that January 1, 2007 was the earliest practicable date on which the permanent standards could apply;

WHEREAS, section 94203(d), title 17, California Code of Regulations requires ARB staff to complete an electrical generation technology review to evaluate the feasibility of

the 2007 emission standards, testing procedures, combined heat and power credit, and emissions durability, and to report their findings to the Board;

WHEREAS, proposed amendments to the DG Certification Regulation were developed through discussions of draft versions made available to the public for review and comment at eight workgroup meetings, one public workshop, and numerous conference calls;

WHEREAS, with the information and comments received from the affected public, and reflecting staff's technology review, the staff has prepared a staff report entitled "Initial Statement of Reasons for Proposed Amendments to the Distributed Generation Certification Regulation" (Initial Statement of Reasons); Attachment A hereto sets forth the amendments to the DG Certification Regulation proposed by staff;

WHEREAS, the Initial Statement of Reasons and the proposed amendments to the DG Certification Regulation were made available for public review and comment 45 days prior to the public hearing to consider the proposed amendments to the DG Certification Regulation;

WHEREAS, the Board has considered the economic analysis in the Initial Statement of Reasons and the impact of the proposed regulatory action on the economy of the State;

WHEREAS, the California Environmental Quality Act and Board regulations require that no project that 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;

WHEREAS, the Board finds that:

ARB has met the requirements of title 17, section 94203(d) of the California Code of Regulations by performing a technology review of the DG Certification program;

The review addressed testing, emission limits feasibility, combined heat and power credit, and emissions durability as required as by section 94203(d);

Both microturbine and fuel cell technologies have been certified to the 2007 standards; therefore, these standards and the compliance date of January 1, 2007, are feasible and appropriate.

The proposed amendments to the DG testing and emission durability requirements appropriately reflect the findings of the technology review;

In the course of the review, ARB staff found a significant number of local air district exempt DG units that are fueled by waste gases;

The proposed amendments to the DG Certification Regulation provide an appropriate means to include waste-gas fueled technologies into the DG Certification program;

The other proposed amendments are necessary and appropriate to improve and clarify the regulation;

The economic impacts of the amendments to the DG Certification Regulation 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;

The proposed amendments to title 17, California Code of Regulations, sections 94200-94214 meet the requirements of Health and Safety Code section 41514.9;

WHEREAS, the Board further finds that:

The proposed amendments to the DG Certification Regulation are expected to have a positive environmental impact by adding waste-gas fueled technologies to the program and thereby eventually making these technologies subject to the same stringent emission standards as natural gas fueled technologies; and

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

NOW, THEREFORE, BE IT RESOLVED that the Board hereby adopts the amendments to section 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.

RECEIVED BY
Office of the Secretary

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RESOURCES AGENCY OF CALIFORNIA

I hereby certify that the above is a true and correct copy of Resolution 06-29, as adopted by the Air Resources Board.

Lori Andreoni

Lori Andreoni, Clerk of the Board