State of California
AIR RESOURCES BOARD

Resolution 09-6

January 23, 2009

Agenda Item No.: 09-1-8

WHEREAS, sections 39600 and 39601 of the Health and Safety Code authorize 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, in section 43000 of the Health and Safety Code, the Legislature has found and declared that the emission of air pollutants from motor vehicles is the primary cause of air pollution in many parts of the state, and in sections 39002 and 39003 of the Health and Safety Code, has charged the Board with the responsibility of systematically addressing the serious air pollution problem caused by motor vehicles;

WHEREAS, sections 39667, 43013, 43101, and 43104 of the Health and Safety Code authorize the Board to adopt and implement motor vehicle emission standards, in-use performance standards, and test procedures, which it finds to be necessary, cost-effective, and technologically feasible;

WHEREAS, sections 43013 and 43018 of the Health and Safety Code direct the Board to endeavor to achieve the maximum degree of emission reduction possible from vehicular and other mobile sources in order to accomplish the attainment of the state standards for ambient air quality at the earliest practicable date;

WHEREAS, section 43018(c) of the Health and Safety Code provides that in carrying out section 43018, the Board shall adopt standards and regulations that will result in the most cost-effective combination of control measures on all classes of motor vehicles and motor vehicle fuel, including, but not limited to, reductions in motor vehicle exhaust and evaporative emissions, and reductions in in-use vehicular emissions through durability and performance improvements;

WHEREAS, ARB staff have developed proposals to address Off-Vehicle Charge Capable Hybrid Electric Vehicles in two areas: one to address emissions and testing by vehicle manufacturers and a second to address certification procedures for conversions to off-vehicle charge capable hybrid electric vehicles;

WHEREAS, ARB staff amended exhaust, evaporative, refueling emission standards and test procedures to direct vehicle manufacturers to address Off-Vehicle Charge Capable Hybrid Electric Vehicles;

WHEREAS, sections 27156, 38391, and 38395 of the California Vehicle Code prohibit the installation, sale, offer for sale or advertisement of any device, apparatus, mechanism intended for use with, or as part of any required motor vehicle pollution control device or system which alters or modifies the original design or performance of any such motor vehicle pollution control device or system unless the Board finds that the device, apparatus, or mechanism either does not reduce the effectiveness of any required motor vehicle pollution control device or does not result in emissions from a modified vehicle which exceed the applicable emission standards for the vehicle;

WHEREAS, ARB staff has proposed amendments to title 13 California Code of Regulations sections 1961, 1962, 1962.1, 1976, and 1978, as set forth in Attachment A hereto; and has proposed amendments to the California Exhaust Emission Standards and Test Procedures for 2001 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles, as set forth in Attachment B hereto; the California Exhaust Emission Standards and Test Procedures for 2005 through 2008 Model Zero-Emission Vehicles, and 2001 through 2008 Model Hybrid Electric Vehicles, in the Passenger Car, Light-Duty Truck and Medium-Duty Vehicle Classes, as set forth in Attachment C hereto; the California Exhaust Emission Standards and Test Procedures for 2009 and Subsequent Model Zero-Emission Vehicles and Hybrid Electric Vehicles, in the Passenger Car, Light-Duty Truck and Medium-Duty Vehicle Classes, as set forth in Attachment D hereto; the California Evaporative Emission Standards and Test Procedures for 2001 and Subsequent Model Motor Vehicles, as set forth in Attachment E hereto; and the California Refueling Emission Standards and Test Procedures for 2001 and Subsequent Model Motor Vehicles, as set forth in Attachment F hereto;

WHEREAS, ARB staff has proposed the adoption of section 2032 and its incorporated procedure, the California Certification and Installation Procedures for Off-Vehicle Charge Capable Conversion Systems for 2000 and Subsequent Model Year Hybrid Electric Vehicles, as set forth in Appendix A, Part 2 and Appendix G of the Staff Report: Initial Statement of Reasons;

WHEREAS, the Board has considered the effects of the proposed amendments that address emissions and testing by vehicle manufacturers 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:

The off-vehicle-charge-capable-vehicle results from the current exhaust, evaporative and refueling emission test procedures do not represent the actual emissions;

The regulation amendments that address emissions and testing by vehicle manufacturers proposed herein would determine emissions from off-vehicle charge capable vehicles under circumstances in which the emissions would be at the highest levels;

The economic and fiscal impacts of the regulatory proposal that address emissions and testing by vehicle manufacturers 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, as supplemented by staff's presentation at the hearing of this item;

The regulation amendments that address emissions and testing by vehicle manufacturers proposed herein may result in cost savings to vehicle manufacturers by reducing the number of tests performed or resources expended in performing tests; and

The regulations proposed for adoption herein that allow conversion system manufacturers to certify off-vehicle charge capable hybrid electric vehicle conversion systems merit further development before the Board considers their adoption;

WHEREAS, the Board further finds that:

The regulation amendments that address emissions and testing by vehicle manufacturers proposed herein will not have a significant adverse environmental impact;

The regulation amendments that address emissions and testing by vehicle manufacturers proposed herein may create some jobs and a few new businesses related to vehicle testing within the State of California, but will not otherwise affect the creation or elimination of jobs or new businesses or the elimination of existing businesses within California, the expansion of businesses currently doing businesses within California, or the ability California businesses to compete with businesses in other states; and

No alternative that addresses emissions and testing by vehicle manufacturers considered by the Board would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected private persons;

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves the amendments to sections 1961, 1962, 1962.1, 1976, and 1978, California Code Regulations, as set forth in Attachment A, and the amendments to the incorporated documents set forth in Attachments B through F, with the modifications set forth in Attachment G, hereto.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to amend sections 1961, 1962, 1962.1, 1976, and 1978, California Code of Regulations, as approved herein, after making the modified regulatory language in Attachment G, with such other conforming modifications and any additional supporting documents and information as may be appropriate, available for public comment for a period of 15 days, provided that the Executive Officer shall consider such written comments regarding the modification and additional supporting documents and information 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 he determines that this is warranted.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer and ARB staff to return to the Board after consulting with the affected conversion system manufacturers and others related to systems for conversions to off-vehicle charge capable hybrid electric vehicles in several months time to continue the Board's consideration of the proposed adoption of section 2032, title 13, California Code of Regulations and its incorporated procedure – the California Certification and Installation Procedures for Off-Vehicle Charge Capable Conversion Systems for 2000 and Subsequent Model Year Hybrid Electric Vehicles.

BE IT FURTHER RESOLVED that the Board hereby determines that the amendments that address emissions and testing by vehicle manufacturers approved herein will not cause California motor vehicle emission standards, in the aggregate, to be less protective of public health and welfare than applicable federal standards.

BE IT FURTHER RESOLVED that the Board hereby finds that separate California emission standards and test procedures are necessary to meet compelling and extraordinary conditions.

BE IT FURTHER RESOLVED that the Board finds that the amendments that address emissions and testing by vehicle manufacturers approved herein will not cause the California emission standards and test procedures for new motor vehicles and engines to be inconsistent with section 202(a) of the Clean Air Act and raise no new issues affecting previous waiver determinations of the Administrator of the Environmental Protection Agency pursuant to section 209(b) of the Clean Air Act.

BE IT FURTHER RESOLVED that to the extent it is necessary, the Executive Officer shall, upon adoption, forward the amendments that address emissions and testing by vehicle manufacturers to the United States Environmental Protection Agency with a

request for a waiver or confirmation that the amendments are within the scope of an existing waiver of federal preemption pursuant to section 209(b) of the federal Clean Air Act, as appropriate.

I hereby certify that the above is a true and correct copy of Resolution 09-6, as adopted by the Air Resources Board.

Monica Vejar

Monica Vejar, Clerk of the Board

Resolution 09-6

January 23, 2009

Identification of Attachments to the Resolution

Attachment A: Proposed Regulation Order, as set forth in Appendix A, Part 1 of the Staff Report: Initial Statement of Reasons

Attachment B: Proposed Amendments to the "California Exhaust Emission Standards and Test Procedures for 2001 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles," as posted on the ARB's Internet site for this rulemaking, www.arb.ca.gov/regact/ phev09/phev09.htm

Attachment C: Proposed Amendments to the "California Exhaust Emission Standards and Test Procedures for 2005 through 2008 Model Zero-Emission Vehicles, and 2001 through 2008 Model Hybrid Electric Vehicles, in the Passenger Car, Light-Duty Truck and Medium-Duty Vehicle Classes," as posted on the ARB's Internet site for this rulemaking, www.arb.ca.gov/regact/ phev09/phev09.htm

Attachment D: Proposed Amendments to the "California Exhaust Emission Standards and Test Procedures for 2009 and Subsequent Model Zero-Emission Vehicles and Hybrid Electric Vehicles, in the Passenger Car, Light-Duty Truck and Medium-Duty Vehicle Classes," as posted on the ARB's Internet site for this rulemaking, www.arb.ca.gov/regact/ phev09/phev09.htm

Attachment E: Proposed Amendments to the "California Evaporative Emission Standards and Test Procedures for 2001 and Subsequent Model Motor Vehicles," as posted on the ARB's Internet site for this rulemaking, www.arb.ca.gov/regact/phev09/phev09.htm

Attachment F: Proposed Amendments to the "California Refueling Emission Standards and Test Procedures for 2001 and Subsequent Model Motor Vehicles," as posted on the ARB's Internet site for this rulemaking, www.arb.ca.gov/regact/phev09/phev09.htm

Attachment G: Proposed Modifications to the Staff Proposals