State of California
AIR RESOURCES BOARD

Resolution 09-39

May 28, 2009

Agenda Item No.: 09-5-4
Continued Item No.: 09-1-8

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, 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 ambient air quality standards 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, 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 developed proposals to address Off-Vehicle Charge Capable Hybrid Electric Vehicles in two areas: (1) to address emissions and testing by vehicle

manufacturers and (2) to address certification procedures for conversions to off-vehicle charge capable hybrid electric vehicles (conversion procedures);

WHEREAS, at a public hearing on January 23, 2009, the Board adopted Resolution 09-6, which approved staff's amendments to the exhaust, evaporative, refueling emission standards and test procedures to direct vehicle manufacturers to address Off-Vehicle Charge Capable Hybrid Electric Vehicles;

WHEREAS, at the public hearing on January 23, 2009, the Board directed the staff to return to the Board in several months time after consulting with conversion system manufacturers and others related to the conversion procedures to allow the Board to continue its 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;

WHEREAS, as directed by the Board, staff has consulted with conversion system manufacturers and others, and 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 and attached, hereto, in Attachment A, with the modifications set forth in Attachment B, hereto;

WHEREAS, the Board has considered the effects 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:

The regulations proposed for adoption herein will allow conversion system manufacturers to certify off-vehicle charge capable hybrid electric vehicle conversion systems, while ensuring that the converted vehicle's emissions do not increase; and

The economic and fiscal impacts of the regulatory proposal on conversion system manufacturers and others associated with the installation of conversion systems 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 Supplemental Staff Report,

(Attachment C, hereto) and by staff's presentation to the Board for the regulatory proposal.

WHEREAS, the Board further finds that:

The adoption of the proposed regulatory action herein will not result in any significant adverse environmental impacts;

The adoption of the proposed regulatory action may create some jobs and a few new businesses related to conversion system manufacturing and installation 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 business within California, or the ability California businesses to compete with businesses in other states; and

No alternative that addresses conversion procedures 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 adoption of California Code of Regulations, title 13, 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, with the modifications set forth in Attachment B, hereto.

BE IT FURTHER RESOLVED that the Board directs the Executive Officer to adopt California Code of Regulations, title 13, 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 approved herein, after making the modified regulatory language in Attachment B and the Supplemental Staff Report as set forth in Attachment C, 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 modifications 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.

I hereby certify that the above is a true and correct copy of Resolution 09-39, as adopted by the Air Resources Board.

Monica Vejar

Monica Vejar, Clerk of the Board

Resolution 09-39

May 28, 2009

Identification of Attachments to the Resolution

Attachment A: Proposed Regulation Order, as set forth in Appendix A, Part 2 and Appendix G of the Staff Report: Initial Statement of Reasons, released to the public on December 5, 2008.

Attachment B: Modifications to Proposed Regulation Order: section 2032, title 13, California Code of Regulations incorporated procedure – the California Certification and Installation Procedures for Off-Vehicle Charge Capable Conversion Systems for 2000 and Subsequent Model Year Hybrid Electric Vehicles.

Attachment C: Supplemental Staff Report: Proposed Rulemaking for Plug-In Hybrid-Electric Vehicles, released to the public on May 12, 2009.