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California Air Resources Board
1001 I Street
Sacramento, CA 95814
VIA ONLINE SUBMISSION

RE: May 31st Workshop: Potential Amendments to the Cap-and-Trade Regulation

Dear CARB Members and Staff,

WPGA is pleased to submit comments in response to the May 31st workshop on potential amendments to the cap-and-trade regulation. We believe that CARB is moving in the right direction with several of the staff concepts presented at the workshop, and are supportive of the continued goals of the cap-and-trade program to reduce greenhouse gas (GHG) emissions across every sector of California's economy in a cost-effective and stable manner.

RE: Transportation Fuel Production: Initial Concept

As previously stated in our letter submitted in October 2023, WPGA is again requesting that renewable propane and other biogenic fuels developed as liquified petroleum gas (LPG) substitutes be exempt from the rulemaking under 17 CA ADC § 95852.2 "Emissions without a Compliance Obligation¹," which is aligned with the goal of sustainably decarbonizing fuels within California at scale. Like renewable diesel, renewable propane is a drop-in hydrocarbon fuel, with the exact same chemical composition as conventional propane at a fraction of its carbon intensity, and is derived from biogenic rather than fossil feedstocks. Alternatively, we would also welcome the change in a blanket definition which exempts all biogenically-sourced fuels from cap-and-trade compliance.

The inclusion of renewable propane into cap-and-trade is consistent with other included biogenic fuels – yet is not currently allowed by statute. Propane, or LPG, is a distinct fuel source from renewable liquified/compressed natural gas or biomethane and other biogenic fuels. Unfortunately, other biogenic fuels with low carbon intensities are able to take advantage of an exemption from cap-and-trade and encourage the rapid GHG reduction of fuels, while propane is not.

The state of Washington in its cap-and-invest program recognizes this already as the most recent state to adopt such a program. It includes explicit language that exempts all "renewable fuels of biogenic origin²," which is inclusive of renewable propane, within its regulation. We believe that this inclusion is entirely consistent with other exemptions, including renewable diesel, biodiesel, and fuel ethanol amongst others in 95852.2.

We still believe that propane derived from biogenic sources should be explicitly exempted from the program to encourage its market competitiveness in displacing fossil propane and would encourage CARB to consider its exclusion explicitly in a future workshop for feedback.

¹ CCR Title 17, Division 3, Chapter 1, Subchapter 10, Article 5, Subarticle 7. Compliance Requirements for Covered Entities: <https://govt.westlaw.com/calregs/Document/I1355E6635A2111EC8227000D3A7C4BC3>

² WAC 173-446-040(2)(a)(i) Exemptions: <https://app.leg.wa.gov/WAC/default.aspx?cite=173-446&full=true&pdf=true>

In the interim, we believe that the proposed staff concept for transportation fuel production is a step in the right direction of setting all biogenic fuels on the same footing and encouraging production within California. Such a change would also have the potential to support California's refining capacity as a market exporter to other regions of the country that are considering or have adopted clean fuels or cap-and-trade programs to decarbonize their in-state fuel consumption.

To that end, we would note that the definition of "liquid hydrocarbon fuel" should be construed to be broadly applicable to those gaseous hydrocarbon fuels of biogenic sourcing that can exist as both gaseous and liquid fuels depending on temperature and pressure within a storage vessel. This would be inclusive of renewable propane, which exists in a gaseous form on combustion but is stored as a partial liquid.

We would also note that propane is used for more than transportation fuel within California, including primary space and water heating, as well as cooking in the hardest-to-decarbonize communities of California. Treating all biogenic fuels as equitable under this program would lead to greater decarbonization of rural California communities (both residential and commercial structures) through equitable treatment of biogenically derived fuels. Considering that outcome, we would also recommend that CARB staff consider naming this concept as "transportation or residential fuels" or a similar moniker to reflect this diversity of use.

RE: Coverage of Emissions from Electricity Generation During an Emergency

We thank CARB staff for recognizing the value of exempting electricity generation emissions during emergencies as a staff concept proposed during the workshop. Propane, both renewable and conventional, is used in a variety of commercial and industrial settings for electricity reliability by serving as fuel for backup generation or distributed generation. During peak demands because of extreme weather or grid instability from unexpected outages, it is often propane that keeps many California businesses in operation and homes temperate.

We believe that exempting the generation of electricity during these events recognizes that health and safety must remain the top priority for residents of California, and that any minor amounts of GHG emitted during electric generation in such circumstances must be a secondary priority for CARB under cap-and-trade.

To that end, we believe that this concept should broadly encapsulate electricity generated during:

- 1) peak demands constituting an emergency, inclusive of CARB staff concept highlighting conformity with EO N-14-22,
- 2) involuntary outages (including Winter storms³) resulting in public health and safety risks,
- 3) and voluntarily utility de-energization events (such as Public Safety Power Shutoffs⁴) in which the burden of generation falls to consumers and not broad compliance entities such as utilities.

Exempting emissions generated during such events is entirely appropriate because it meets several key criteria that indicate the fleeting nature of these emissions: these events are

³ Governor's Executive Order N-2-23, February 2, 2023: <https://www.caloes.ca.gov/wp-content/uploads/Legal-Affairs/Documents/Proclamations/1.31.23-Winter-Storms-EO.pdf>

⁴ CPUC Rulemaking 18-12-005 (authorized through Public Utilities Code Sections 451 and 399.2(a)): <https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M251/K987/251987258.PDF>

typically localized, temporary, and place residents of California at direct health and safety risk. Minimizing consumer and operator costs, and attendant compliance obligations, during these events will ensure that California protects its residents during times of high need without creating on-going emissions that would need to be addressed by cap-and-trade. In addition, it would incentivize the usage of distributed generation resources – also used during non-emergent events and whose emissions, at that point, would be considered under the rulemaking – that will be necessary to meet electric generation demands from other rulemakings at CARB, the California Energy Commission, and California Public Utility Commission.

RE: Importers of Fuel: MRR Initial Concept

We have serious concerns about the draft concept surrounding the shift of reporting requirement from importer to “owner” of LPG, and its unintended consequences. The staff concept, as proposed in the slides, changes the “annual reporting threshold for importers of LPG from 10,000 MTCO_{2e} to 100,800 gallons of imported LPG (~3 railcars, 587 MTCO_{2e}),⁵” but not for LNG or CNG importers. This threshold would be inclusive of the vast majority of propane marketers within California, the bulk of which are small businesses. Depending on how “owner” is defined and the concept implemented, this could create a reporting and compliance obligation to businesses of such small size that even initial fines and penalties under MRR could create undue financial hardships.

Further, this concept would create a different standard for LPG versus every other fuel regulated under cap-and-trade and presents a potentially significant cost impact to lower-income consumers during peak winter demand seasons and refinery outages.

The scope of this concept is so significant that we are unable to ascertain the full impact of it before the comment period ends. We will continue to have conversations with CARB staff to clarify our position and the intent behind the concept, and thank CARB staff for our previous discussion on this topic.

We intend to form an internal working group within our industry amongst all potentially impacted parties to determine if there is language that would protect smaller members of the industry from significant costs and hardships from compliance. We will also work to develop an alternative pathway to compliance that would allow for CARB verifiers to accurately determine volumes of imports of LPG and ensure that the import market into California is adequately captured within the rulemaking.

In the interim, we believe that there are several questions about the concept that we would request CARB provide external clarity on:

- Where did the 100,800-gallon threshold come from, and why was that threshold established?
- What is the primary impetus for shifting this reporting burden – questions of noncompliance or related to verification?
- Why are LPG imports proposed to be treated differently from other fuels within cap-and-trade?

⁵ CARB Staff Presentation, May 31, 2024: https://ww2.arb.ca.gov/sites/default/files/2024-05/hc_CapTradeWorkshop_May3124.pdf

CONCLUSION

We look forward to working with CARB staff in the future on cap-and-trade regulation updates and ensuring that our industry and consumers who rely on our fuel are protected from unintended consequences.

Sincerely,

A handwritten signature in black ink that reads "Krysta Wanner". The signature is written in a cursive, flowing style.

Krysta Wanner
Director of Government Affairs, WPGA
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