

**STATE OF CALIFORNIA  
ENVIRONMENTAL PROTECTION AGENCY  
AIR RESOURCES BOARD**

**Further Comments of AmeriGas Propane, L.P.  
to Proposed Amendments to the  
Regulation for the Mandatory Reporting of Greenhouse Gas Emissions**

Dated: January 20, 2017

## 1. Introduction

AmeriGas Propane, L.P. (“AmeriGas”) is pleased to provide the following comments in further response to the California Air Resources Board’s (“ARB”) proposed amendments to California’s existing Regulation for the Mandatory Reporting of Greenhouse Gas Emissions<sup>1</sup> (“MRR”). AmeriGas’s comments are provided in response to ARB’s December 21, 2016, First Notice of Public Availability of Modified Text and Availability of Additional Documents (“Notice”), inviting the submission of written public comments in response to certain modified proposed regulatory text.

AmeriGas is a nationwide distributor of liquefied petroleum gas (“LPG”) with extensive operations in California and is currently subject to the MRR as a California consignee of imported LPG.<sup>2</sup> ARB’s Initial Statement of Reasons for Rulemaking (“Staff Report”) and the recommended amendments reflected in both the Proposed Regulation Order<sup>3</sup> (“Proposed Order”) and the Proposed Amendments to the Regulation<sup>4</sup> (“Proposed Amendments”) indicate that one of the proposed amendments to the MRR is designed to clarify the point of regulation for importers of LPG, removing the term “consignee” and changing the “importer of fuel” definition.<sup>5</sup> The Proposed Amendments state that “[b]ased on stakeholder comment, the ‘Importer of fuel’ definition is amended to address concerns that fuel importers could avoid a reporting obligation by disaggregating imported volumes through simple contractual changes.”<sup>6</sup> AmeriGas offers the following comments in further response to the amendment made to the “Importer of fuel” definition.

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<sup>1</sup> 17 CCR § 95100, et seq. The MRR was developed pursuant to the Global Warming Solutions Act of 2006 (“AB 32”).

<sup>2</sup> See 17 CCR § 95101(c)(5).

<sup>3</sup> Exhibit A to Staff Report.

<sup>4</sup> Exhibit A to Notice.

<sup>5</sup> Staff Report at 3, 5; Notice at 3.

<sup>6</sup> *Id.*

## **2. AmeriGas Strongly Supports the Proposed Amendments to the Importer of Fuel Definition**

As outlined in our initial comments,<sup>7</sup> AmeriGas strongly supports the ARB promoting the goals of AB 32 in maintaining a robust and accurate greenhouse gas reporting program through the amendments to the MRR when necessary. ARB's effort to modify the point of regulation for importers of LPG will help further of those goals by preventing leakage.<sup>8</sup> AmeriGas is concerned that certain fuel importers could avoid the cost of compliance with the MRR by transferring ownership to fuel outside of California prior to importation and thereby disaggregating emissions positions among their customers or other distributors they have arranged to serve their customers. AmeriGas strongly supports amending the "importer of fuel" definition to address these concerns.

## **3. Suggestions for Further Clarification of Proposed Definition of Importer of Fuel**

AmeriGas suggests the following clarifying edits (clean and redline) to the proposed definition of "importer of fuel" to help ensure disaggregation and leakage is avoided:

Clean: "Importer of fuel" means an entity that imports fuel into California and who is the importer of record under federal customs law. For fuel imported into California that is not subject to federal customs law, the "importer of fuel" is the owner of the fuel upon its entering into California if the eventual transfer of the ownership of the fuel to an end-user located inside California occurs at a location inside of California. However, if the transfer of ownership of the fuel to an end-user located in California occurs at a location outside of California, then the "importer of fuel" is the producer, marketer, or distributor that is the seller of the fuel to the end-user. Further, however, if the transfer of ownership of the fuel destined for an end-user located in California occurs at a location outside of California between a seller(s) and buyer(s)

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<sup>7</sup> Comments of AmeriGas Propane, L.P. to Proposed Amendments to the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions, September 12, 2016 at 1-2.

<sup>8</sup> Notice at 5.

where any party is a producer, marketer or distributor and a seller has a contractual obligation to serve the end-user in California, then the “importer of fuel” is such seller. Pursuant to section 95122, only importers of liquefied petroleum gas, compressed natural gas, and liquefied natural gas are subject to reporting as an importer of fuel.

Redline: “Importer of fuel” means an entity that imports fuel into California and who is the importer of record under federal customs law. For fuel imported into California that is not subject to federal customs law, the “importer of fuel” is the owner of the fuel upon its entering into California if the eventual transfer of the ownership of the ~~product between the seller and the~~ fuel to an end-user located inside California ~~buyer~~ occurs ~~upon delivery to a destination~~ at a location inside of California. However, ~~whereif~~ the transfer of ownership of the ~~product between the seller and the~~ fuel to an end-user located in California ~~buyer~~ occurs at a location outside of California, then the “importer of fuel” is the producer, marketer, or distributor that is the seller of the fuel ~~that is forwarding the fuel in accordance with a contract of sale from an origination~~ to the end-user. Further, however, if the transfer of ownership of the fuel destined for an end-user located in California occurs at a location outside of California ~~to a buyer located inside~~ between a seller(s) and buyer(s) where any party is a producer, marketer or distributor and a seller has a contractual obligation to serve the end-user in California, then the “importer of fuel” is such seller. Pursuant to section 95122, only importers of liquefied petroleum gas, compressed natural gas, and liquefied natural gas are subject to reporting as an importer of fuel.

#### **4. Conclusion**

AmeriGas Propane, L.P. is pleased to submit the foregoing further comments in response to the Staff Report, Proposed Order, Proposed Amendments, and Notice.

Respectfully submitted,

Michael P. Daly  
[Michael.Daly@dbr.com](mailto:Michael.Daly@dbr.com)  
Brian C. Pickard  
[Brian.Pickard@dbr.com](mailto:Brian.Pickard@dbr.com)

Drinker Biddle & Reath LLP  
One Logan Square, Suite 2000  
Philadelphia, PA 19103-6996  
(215) 988-2700 phone  
(215) 988-2757 fax

Christopher B. Berendt  
[Christopher.Berendt@dbr.com](mailto:Christopher.Berendt@dbr.com)

Drinker Biddle & Reath LLP  
1500 K Street, N.W.  
Washington, DC 20005-1209  
(202) 842-8800 phone  
(202) 842-8465 fax

*Counsel for AmeriGas Propane, L.P.*

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