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December 8, 2008

Christina Zhang-Tillman and Wes Ingram  
California Air Resources Board  
P.O. Box 2815  
Sacramento, CA 95812

Dear Ms. Zhang-Tillman and Mr. Ingram,

The Western Propane Gas Association represents nearly 120 companies that sell and distribute propane throughout California. We appreciated the conference call you held with our association representatives in late October and Dean Simeroth's assurances that propane's role in the low-carbon fuel standard would be reviewed. However, following the public meeting held on December 2, we continue to have several questions and concerns regarding the draft regulatory language. A written reply or second conference call is requested so as to resolve these and other outstanding issues.

WPGA recognizes that propane is minor player in this regulation development. Still, some proposals seem to unnecessarily lump propane in with the larger volume transportation fuels, thereby putting enormous burdens on a few players for what seems to be very limited value.

First, the thrust of our concerns and arguments deal with, for lack of a better word, proportionality.

By that we mean that for a regulation to be effective it must among other things: (1) be transparent in its meaning, (2) be equitable to all parties affected, (3) have a compliance and reporting structure that is as simple and straightforward as possible, and (4) have compliance burdens that are more than offset by the regulation's benefits to California's citizens. WPGA believes that the draft proposal as it pertains to propane is sufficiently weak in all the above criteria, and we are therefore submitting recommendations as to how it can be strengthened. In summary those recommendations are:

- 1) For any *alternative fuel* in the aggregate to be subject to the LCFS, establish a threshold volume of annual sales other than the 3.6 million gge. That minimum volume should be at least 1% of the total transportation fuel usage in California.
- 2) For a *regulated party* to be subject to the reporting requirements, establish a threshold volume of 500,000 gallons per regulated party, and/or 25,000 gallons per dispensing site and only if the total volume in the aggregate sold within the state exceeds the 1% indicated above. This means that if the total sales of the alternative fuel by all propane users in the state does not equal or exceed 1% of the total transportation fuel usage, no reporting is required.
- 3) For volumes of alternative fuels sold below the threshold, there would be no credits earned unless a regulated party voluntarily complies with the reporting requirements.

This approach to alternative fuels has the following advantages:

- A great amount of reporting burden will be lifted from those dispensing propane while at the same time reduce ARB's time and efforts in collecting data.

- ARB's enforcement burden will be greatly reduced since the number of regulated parties dispensing small volumes will be exempt.
- Should the volume of propane dispensed for transportation increase greatly in the next few years thereby reaching the 1% threshold, compliance is automatic for those regulated parties dispensing large volumes of fuel.
- Many of the issues raised later in this letter disappear.
- ARB has said it plans to revisit the regulation perhaps every three years. Should the position with propane change dramatically from its role today in the transportation market sector, very little consequence can occur in the meantime.

For detailed reasons for these recommendations the following narrative will demonstrate the practical benefits of streamlining compliance. Some reasons are applicable to all alternative fuels, while others are unique to propane.

Please allow us a few paragraphs to explain our industry. LPG (we will call it "propane" since propane is the far dominant component of LPG) is a pretty simple hydrocarbon, C<sub>3</sub>H<sub>8</sub>. No one deliberately makes propane; it occurs naturally as a function of processing natural gas and refining crude oil. Propane in its natural state is gaseous. Under slight pressure or lower temperature it reverts to a liquid state where it can be stored and transported more economically since 270 units of vapor can be as a consolidated into a single unit of liquid. Think of a butane lighter. That's gas inside but in a liquid form.

Because propane is easily transportable, it has nearly infinite uses wherever heat, light or power is required. Whether used for fueling engines, heating homes, heating water, destroying weeds and pathogens, drying grain or lighting a barbecue grill, it is the same fuel. It moves through a common distribution system from point of production to the burner tip or engine carburetor, yet, only a portion of propane's total market volume is subject to the LCFS regulation, in the case of California that portion is roughly 10% (about 73 million gallons out of 590 million gallons total sold, according to the American Petroleum Institute).

In terms of greenhouse gas production, according to ARB's Technical Analysis report, Table 1-1 California transportation fuel, GHG emission in the baseline year, 2004, LPG accounts for 0.19 MMTCO<sub>2e</sub> and 0.10% of the total GHG. Enter our concern with proportionality: 0.10% of total GHG is sourced from propane transportation fuel, yet the pathway (**page 17. (d)(2)**) regulation for all propane produced or transported to California must be accounted for since there is no way to distinguish at the point of production which portion is going to end up as a transportation fuel. We have one distribution system.

Enter our concern with equitability. Diesel and gasoline, whether or not blended, are used exclusively in internal combustion engines. Although the distribution system is complex, the end use market is an engine. Because the LCFS regulation applies to transportation fuels only, compliance burdens for gasoline and diesel are likely proportionate to the benefits received since gasoline and diesel dominate the transportation fuels market. That is not the case with propane.

**Second**, referencing Page 17. (5) Natural Gas...and LPG, we are concerned with the compliance burden offset by benefits received.

The regulation makes no provision for a minimum volume compliance threshold other than the 3.6 million gge/year supplied by all parties. Since there are more than 3.6 gge/year of propane sold as a transportation fuel in California in a year, a single propane dealer operating his pickup on propane now becomes a regulated party and is subject to all the provisions of such including quarterly and annual reports and pathway documentation. That's a bit overkill in our view where the compliance burden swallows any possible benefit. These regulations will apply to some, not all, very small businesses that are not sophisticated, are not calculus proficient and not familiar with the process of very complicated compliance regulations.

Further, we are concerned with transparency. The regulated party is the person that holds title to the fuel immediately prior to delivery of the fuel to the facility at which the fuel is dispensed to motor vehicles. This definition is extremely critical to the propane industry and begs for clarification.

Scenario I. Propane retailer A sells propane from his dock to multiple uses including some transportation fuel. The fuel is supplied from his main storage tank directly to the dock where it is dispensed into vehicles and/or forklift tanks. In this instance the regulated party is the wholesaler or producer from whom the retailer purchased the fuel since that is the party that held title to the fuel before delivering to the retailer. The reporting and compliance burden in this instance is the wholesaler.

Propane Retailer A also sells propane to third party independent dispenser operators such as camp grounds, rental yards and gasoline service stations as well as supplying fuel to a forklift customer. At each of these third party sites propane is sold for recreational vehicles, plumber's pots, barbecue cylinders, 100-pound cylinders for temporary heat, and other uses. These sites might just sell some transportation fuel as well, including an occasional forklift tank or to a motor vehicle.

In the case of third party dispensing, the regulated party is now the propane retailer since he held title to the fuel immediately prior to the delivery of the fuel to the facility at which the fuel is dispensed to a motor vehicle. Therefore, in Scenario I, there are two regulated parties both reporting on volumes of fuel from a single source, and in many instances these volumes are extremely low, say, less than 100 gallons per month.

Scenario II. Propane Retailer B also has a Wholesale Business C in addition to his retail operations, a fairly common occurrence in California. This wholesale business supplies Propane Retailer B's retail operation as well as large commercial and industrial accounts and even some other propane retailers. Consider the permutations of the "regulated party" definition in this scenario where sales of transportation fuels are made by Propane Retailer B to his own customers, at both his dock and delivered to the customer site (making the regulated party obligations very fuzzy). Then consider the regulated party obligation when fuel is sold by Wholesale Business C to another propane retailer who in turn has distribution patterns similar to Propane Retailer A.

Does ARB really want to this headache when in so many instances the volumes at stake are so small? Thus, we feel there is a need for minimum requirements and thresholds.

There are also a number of points in the draft regulation we would ask for clarification on, including:

1. On page 11, Table 3. Summary of Applicable Standards for Alternative Fuels, forklifts are listed as representative examples. Most forklifts, or at least a vast majority in California, are powered by propane. Why is the "applicable standard" diesel fuel?
2. On page 26, Table 4:
  - a) Under the CNG, LNG, LPG column reporting is required for (line 4) "blended fuel yes/no". What is the definition of "blended" as it pertains to LPG?

b) At line 6, “Types of blendstock” is required to be reported? What various “types” of LPG blendstock are there?

c) At line 9 “Blendstock” is again required to be reported. What is the difference between blendstock at line 6 and line 9, all required to be reported for LPG?

3. Please see page 27, (d)(2) Evidence of Physical Pathway. Perhaps if we understood the rationale for requiring evidence of a physical pathway for LPG, it would be easier to comply. However, as written the reason for a “pathway” for propane transportation to or in California is not clear. Further, when one understands the complexity of the propane distribution system some fuel simply has no specific pathway and cannot under any circumstances be identified or evidenced.

a. The regulated party with pathway compliance in the case of propane will be for the most part the retailer. The regulated party is required to provide evidence of the pathway regardless of the amount of fuel dispensed as a transportation fuel.

Consider a small LPG retailer selling 500,000 gallons per year of which 2,500 gallons is used in his pickup and for supplying one customer with one forklift, both transportation fuel uses, thus the regulated party. He buys his propane from Wholesaler X who delivers to his 18,000-gallon bulk storage. Wholesaler X buys his propane from 10 different sources, some within California, some from outside California, and some from Canada. He also buys some from the Elk Grove refrigerated terminal, the supply for which comes from within California, Canada, Texas, and at least three other states. All of the supply is commingled and fungible at various storage depots along the distribution path.

The propane retailer, the regulated party, can only provide the pathway if it is provided by his Wholesaler X, and Wholesaler X will in many instances have no idea where the specific fuel delivered to the LPG retailer came from because of its fungibility.

In the above situation, how would ARB propose the pathway be established? What possible value to ARB does the LPG pathway have? How can this LPG retailer, the regulated party, “account for 95% of the fuel that reaches California,” as required in (2)(B)? Clearly, some of these regulations appear to be applicable to fuels other than propane.

4. On page 30, it says “For a provider of an unblended fuels such as electricity, hydrogen or CNG/LNG Eqns. 1.1 and 1.2 become....” Does ARB consider LPG to be a “blended fuel” or does this statement apply to LPG as well?

5. In section 95425, LCFS Credits and Deficits, we believe it is unlikely that any of the regulated parties dealing with propane understand the complex formulas in this section. ARB should plan for instructional modes to convey using the formulas for reporting.

6. On page 42, Section 95427, (B) Requirements for Multimedia Evaluation, WPGA assumes this section does not apply to propane since there is an adopted fuel specification for propane in California.

In conclusion, we remain extremely concerned about the reporting burden on our members, a majority of which are small businesses that we feel are ill equipped to handle the technical requirements outlined in the proposed regulatory language. In an attempt to relieve this burden, we continue to propose that the ARB accept a single report on behalf of the entire propane industry from the statistics provided in the yearly American Petroleum Institute Sales of Natural Gas Liquids and Liquefied Refinery Gases report. We respectfully ask for another brief meeting or conference call to discuss and clarify these issues.

We appreciate the incredible amount of work the Air Resources Board has invested into this effort, and our industry looks forward to continuing as partners in the future to improve California's air quality.

Sincerely,

Lesley Brown Garland  
President and CEO