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

RE: December 11th Workshop: Zero-Emission Space & Water Heater Standards

The Western Propane Gas Association (WPGA) is pleased to submit comments in response to the December 11, 2025 workshop on developing the Zero-Emission Space & Water Heater Standards. WPGA thanks the California Air Resources Board (CARB) staff for considering more flexible approaches than the original concept and for taking time to meet in advance of the workshop to discuss our concerns. We also appreciate the acknowledgment of consumer feedback highlighting issues of housing affordability, high installation and energy costs, electric reliability in rural regions, and allowing dual fuel systems. However, there remain serious problems with the proposed regulatory frameworks as we will highlight below.

UNWORKABLE AND ILLEGAL

While the staff proposal allows Californians to continue reaping the air quality benefits of affordable and reliable high-efficiency propane space and water heaters to some extent, it leaves much to be desired. The three alternative proposals all put a limit on the sale of emissive equipment that restricts the purchase of new gas space and water heaters in California. As stated on slide 11 of the December workshop presentation, "sales refers to equipment produced and delivered for sale or sold in California… with a rated heat input capacity up to 2,000,000 Btu/hour must comply with emissive sales limits (%) starting on January 1, 2030."[1]

The proposed regulatory frameworks, as presented, could be construed as a violation of EPCA and be preempted by federal law. EPCA expressly preempts state and local regulations concerning the energy use of a covered product.[2] In 2024, the Ninth Circuit made clear that "regulations that address the [appliances] themselves and building codes that concern their use" of fuels are preempted under the federal Energy Policy and Conservation Act (EPCA). *Cal. Rest. Ass'n v. City of Berkeley*, 89 F.4th 1094 (9th Cir. Jan. 2, 2024). The Ninth Circuit focused on the *effect* of a regulation on the energy use of covered appliances and explained that states "can't skirt the text of broad preemption provisions by doing *indirectly* what Congress says they can't do *directly*." *California Rest. Ass'n v. Berkeley*, 89 F.4th at 1107. The staff proposals, if they function as intended to limit sales, are a partial ban on gas appliances that raise serious legal concerns.

Additionally, the reporting requirements make the policy unworkable. Slides 21 and 22 of the staff presentation declare that both manufacturers and distributors must comply with reporting requirements for heater sales annually to "collect and track equipment sales, purchases, and credits to determine compliance." For example, manufacturers would be required to report

[1] CARB Workshop for Zero-Emission Space and Water Heater Standards December 2025

[2] See 42 U.S.C § 6297(c) (residential appliances); § 6316(b)(2)(A) (industrial appliances).

"sales volume into California by equipment type, model family, size, and name of purchaser, including business ID." Such a requirement invokes concerns about the public release of proprietary data or trade secret information and compels speech which would benefit one business versus another. These are serious business and legal concerns that need to be addressed and resolved before drafting the ZE Space and Water Heater regulation.

INCONSISTENT WITH CONSUMER NEEDS

CARB is making it more restrictive to purchase affordable and reliable propane space and water heaters. Affordability has been a key priority for policymakers throughout state and local government for the past few years; however, consumer electricity rates continue to rise beyond the means of individual consumers. All three alternatives would *de facto* restrict consumers' ability to purchase propane appliances and create unintended cost increases on those appliances due to artificial scarcity. The regulatory concepts could, in practice, increase the price of any compliant gas appliance still available in the market significantly, with the credit system functioning to raise the price towards the all-in price of electric space and water heaters replete with all their additional costs of installation, including rewiring, panel upgrades, and retrofit of existing physical infrastructure.

On top of cost barriers, there is no guarantee that purchasers of electric heaters will have constant access to electricity, as residents in cold climates, rural areas, and regions plagued with Public Safety Power Shutoffs (PSPS) are more likely to endure frequent power outages, rendering the equipment useless unless paired with even more backup power solutions – many of which, in rural communities, are already propane backup generators. Moreover, an increase in electric space and water heaters means increased demand on the already heavily loaded grid, with even higher demands during inclement weather. As we have highlighted before, the new power demands during cold weather would create a significant increase during the Winter when California's renewable power, predominantly solar, is at its lowest generation rate. Rural and low-income communities should not have to face burdensome transition costs and an unreliable energy source.

Also, it should be recognized that propane often plays an essential role in ensuring energy accessibility and reliability in rural areas and colder climates. As noted in our letter submitted June 26, 2024, both Bay Area and South Coast Air Quality Management Districts recognized the difficulty of transitioning both propane and natural gas equipment as part of compliance and made a determination to exempt propane from their zero-NO_x rules. Not all fuels are equal; propane is a clean fuel that has a low Carbon Intensity comparable to the California electric grid and does not contain any methane. By allowing propane-powered heaters, consumers in the coldest and most rural regions of the state can help meet the state's air quality goals in a way that is neither cost-prohibitive nor puts them at risk of losing access to critical home and water heating during one of the state's regular power outages.

In short, the proposed staff concepts are not aligned with the needs of Californians, especially those from rural and low-income communities, as reflected in the community feedback taken from regional workshops. WPGA recommends aligning any state standard for space and water heaters with the AQMD's determination to exempt propane.

PITFALLS FROM PREVIOUS POLICIES

CARB's proposal also includes a credit system, in which heater manufacturers can earn credits through the sale of electric appliances, but will be penalized if they do not meet their sales

quota. Such a credit system is very similar to that of CARB's Advanced Clean Cars (ACC) II Regulation and Advanced Clean Trucks (ACT) regulation. While the staff concept views the credit system as a form of compliance flexibility, the real-world results of years of ACC II and ACT have proven otherwise. Though credits could have been bought to meet sales limits, the result of both ACC II and ACT was that manufacturers limited the sales of non-compliant technologies into California due to low consumer demand for compliant technologies, rather than risk exposure to compliance obligations, such as fines, penalties, or mandatory credit purchases. This resulted in an artificial scarcity of products and inflated prices.

Replicating this failed template for a much broader market – consumer appliances – is a recipe for disaster. It will result in scarcity of appliances that consumers prefer and higher prices, harming affordability and consumer choice. And it will harm smaller manufacturers and competition. When CARB has designed policies to choose "winners" and "losers" in a particular open, competitive market, it pits large companies or trusts against small companies that cannot compete in that now-altered market. Although larger companies may have larger margins or greater investment to purchase credits to meet CARB requirements, smaller companies do not possess the same ability. Such stringent emissive equipment sales limits risk forcing businesses out of operation, further reducing market competitiveness and pushing costs higher for consumers. It also puts more pressure on the consumer who ends up paying more for a compliant heater because there are fewer on the market. Some consumers will be obligated to purchase an electric appliance along with its necessary installation costs that does not suit their needs because it is all that will be left for sale or, worse, seek black market appliances from outside California's jurisdiction since the compliance obligation of this proposed rule lies with the manufacturer.

The unrealistic sales targets outlined in slide 14 of the staff presentation are setting up manufacturers for failure. In Alternative 1, it is proposed that the emissive sales limit be 45% for space heating and 65% for water heating starting in 2030. The more stringent Alternative 2 restricts the sales limit for both heating types by an additional 15%. These limits are not reflective of current sales data when comparing the sales of gas and electric heating equipment. It is unreasonable for CARB to expect manufacturer compliance when the sales limits are presently out of reach. Sales limits should be based on real data to decide achievable goals.

Instead of repeating policy systems that have been proven to fail, CARB staff should reflect on the lessons learned to develop a heater standard system that is based on feedback from manufacturers, consumer demand, regional heating requirements, and accurate modelling.

CONCLUSION

WPGA seeks a concept option that is less stringent than those proposed in the December 11th workshop and is more affordable for all parties. Offering the ability for consumers to purchase new propane space and water heaters or convert natural gas heaters is in accordance with the rules set by the regional AQMDs mentioned above and contributes to CARB's emission reduction goals without burdening those communities served by propane space and water heating.

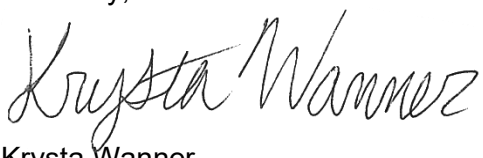
WPGA respectfully requests that the next iteration of staff concepts address these key concerns:

1. The current proposal may be a violation of EPCA.

2. It is inconsistent with the needs of Californians for affordable, reliable energy and overlooks the critical role played by propane in certain areas.
3. By incorporating concepts from previous unsuccessful regulations, it sets this regulation up for failure from its outset.

We welcome the opportunity to discuss these concerns further and provide additional resources to inform the draft concepts of the Zero-Emission Space & Water Heater Standards.

Sincerely,



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