

WPGA Files Suit Against California Air Board on Detrimental Forklift Rulemaking



August 23, 2024, Sacramento, CA – Today, the Western Propane Gas Association (“WPGA”) announced that it has filed a lawsuit in Fresno County Superior Court against the California Air Resources Board (“CARB”) over the Zero-Emission Forklift rulemaking. The suit argues that the rule contains numerous violations of state law and the California Constitution. The rulemaking was approved in late-June 2024.

“We are disappointed that our repeated good faith efforts to find a pathway forward that simultaneously protected consumers and businesses while achieving CARB’s stated goals were rejected,” said **Colin Sueyres**, President & CEO of WPGA. “Instead, our industry and those who use our fuel have no choice but to challenge CARB in court for their blatant violations of state law and the state Constitution. While we will continue to vigorously defend affected industries and the thousands upon thousands of employees across California who will be adversely harmed, we hope that CARB and the state of California may yet come to the table with my industry and our partners to find an equitable solution.”

The lawsuit filed today highlights several aspects of state law that were violated, including aspects of the state’s Environmental Quality Act (“CEQA”), Administrative Procedures Act (“APA”), Health and Safety Code (“HSC”), and the California Constitution.

In particular, the suit lays out clear violations of CEQA, including the failure to consider the environmental impacts from new infrastructure construction to meet the mandate, increased use of diesel generators to charge battery forklifts, leakage of emissions, and new peaking electricity demands and associated emissions, amongst other effects of the rulemaking.

The suit also argues that the rule exceeds CARB’s authority and constitutes an action without clear statutory authority granted by the Legislature, a violation of the California Constitution. As a result, adoption of the rule also deprives citizens and businesses of their rights protected under California law, namely the right to continue operation of an established business in accordance with a valid government authorization.

“The propane industry has always worked to be a good neighbor and provide a fuel that is clean, safe, and efficient for millions of Californians,” **Cassandra Russo** of AmeriGas, Chair of WPGA’s Board of Directors. “Propane-powered forklifts are the reason that California’s construction, agricultural, goods movement, and retail industries are the envy of other nations, while continuing to help California transition away from diesel fuel.”

“California electricity prices are spiking and businesses are already dealing with staggering impacts from a multitude of compliance obligations,” said **Alex Gallard** of Blue Star Gas, Chair of WPGA’s Legal Action Committee. “Adding yet another rule that is – at best – infeasible will force billions in new costs onto businesses, nonprofits, and local governments without meeting state climate goals. We are hopeful that this lawsuit will give the state of California pause to reconsider alternatives to this harmful rule.”