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Vice President and Regulatory Affairs Counsel

May 4, 2009

Jack Kane, Chairman
National Conference on Weights and Measures
1135 M Street, Suite 110
Lincoln, NE 68508

Via e-mail: jkane@mt.gov

Re: Automatic Temperature Compensation Devices for Fuel Dispensers

Dear Chairman Kane:

The American Trucking Associations, Inc.¹ (ATA) is writing to provide comments on the issue of automatic temperature compensation (ATC) and its potential impact upon consumers of diesel fuel. As the national representative of the trucking industry, ATA is interested in the matters affecting the purchase and sale of diesel fuel, including the manner in which diesel is dispensed at retail fueling stations. Diesel fuel is the lifeblood of the trucking industry. Last year, the trucking industry consumed 39 billion gallons of diesel. For most carriers, fuel is the second largest expense after labor. As the largest diesel fuel consumer group, ATA members are keenly interested in any initiative that could impact diesel prices.

The trucking industry is the backbone of this nation's economy, accounting for more than 80% of the nation's freight bill and employing nearly 9 million Americans. The trucking industry delivers virtually all of the consumer goods in the United States, and over 80 percent of all communities in the United States receive their freight exclusively from trucks.

ATA has closely followed the debate over ATC and has previously provided comments to the National Conference on Weights and Measures (NCWM), opposing both permissive and mandatory ATC.² With the recent findings of the California Energy Commission (CEC) that implementation of ATC will result in additional costs for

¹ ATA is a united federation of motor carriers, state trucking associations, and national trucking conferences created to promote and protect the interests of the trucking industry. Directly and through its affiliated organizations, ATA encompasses over 37,000 companies and every type and class of motor carrier operation.

² See Letter from Richard Moskowitz, ATA to Judi Cardin, NCWM (January 14, 2008).

retailers and consumers with virtually no quantifiable benefit, we wish to again express our opposition to implementation of ATC at the retail level.

As we expressed to NCWM in our letter of January 14, 2008, ATA opposes a permissive standard for ATC. Permissive temperature compensation leaves the decision regarding whether to install temperature compensation equipment to the fuel retailer's discretion. A permissive temperature compensation regulatory environment could allow retailers to manipulate the system by installing the equipment where the average temperature of the fuel dispensed is below 60 degrees, and refrain from such installation where the average temperature of the fuel dispensed is above 60 degrees.

Permissive temperature compensation also could undermine fair trade and transparency in the retail marketplace. Many trucking companies rely upon daily price surveys to determine where and how much fuel to purchase at given points along a truck route. Other trucking companies rely on advertised prices to determine where to refuel. The use of ATC equipment by an unknown portion of fuel retailers will greatly complicate our members' ability to determine the most economic place to refuel. Retailers, whether located across the street from one another or across a state border, would no longer be selling comparable volumes of fuel, making it exceedingly difficult to make an educated purchasing decision.

ATA recognizes that the retail motor fuels industry is highly competitive with gas stations and truck stops competing fiercely to attract additional business on the basis of a penny per gallon. Fuel retailers price their fuel to cover the cost of the bulk fuel they purchase and include a reasonable return on their investment. In pricing diesel fuel, the retailer also must consider the prices that competing stations are charging, since a difference of as little as one penny per gallon could result in a substantial gain or loss of business. In this highly competitive environment, inventory expansion and shrinkage are accounted for in the retail price of diesel fuel, and any perceived advantage from temperature variation is eliminated through competitive pricing.

ATA does not believe that ATC technology will ensure that every gallon yields the same energy content. There are far more variables affecting the energy content of fuel other than temperature. BTU reductions from various renewable blends (e.g. ethanol and biodiesel) may have a greater impact upon energy content than temperature.

As we have commented previously, we are concerned that the trucking industry will bear the cost of installing ATC devices on fuel dispensers. The CEC's cost benefit analysis confirmed this. Therefore, we stand by our previous statement that the installation of ATC devices is a solution that is more expensive than the problem it is trying to address.

In a single day, a truck driver may travel through several states. We believe it would be detrimental to our industry if various states each adopt their own systems for

measuring motor fuel. Therefore, we again recommend that the NCWM consider new language that prohibits states from adopting ATC at the retail level.

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If you have any questions concerning the issues raised in this letter, please contact the undersigned at (703) 838-1910.

Respectfully submitted,



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cc: States Weights and Measures Officials

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