



January 14, 2008

Judy Cardin  
Chairman  
National Conference on Weights and Measures  
15245 Shady Grove Road  
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*Via e-mail:* [judy.cardin@wisconsin.gov](mailto:judy.cardin@wisconsin.gov)

Re: Automatic Temperature Compensation

Dear Chairman Cardin:

The American Trucking Associations, Inc.<sup>1</sup> (“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 matters affecting the purchase and sale of diesel fuel, including the manner in which diesel fuel is dispensed at retail refueling stations.

The trucking industry is a vital component of our national economy. In 2006, trucks transported nearly 11 billion tons of freight domestically, representing 69 percent of all freight transportation tonnage. The trucking industry accounts for 84 percent of all freight revenues and exclusively serves the freight needs of over 80 percent of all communities in the United States.

Diesel fuel is the lifeblood of the trucking industry. For most motor carriers, fuel is the second-largest operating expense after labor. For this reason, our members are keenly interested in any initiative that could impact diesel fuel prices.

For more than a year, ATA has closely followed the debate over ATC. Early on, ATA adopted a position opposing temperature compensation on a *permissive basis*, concluding that permissive temperature compensation would disadvantage diesel fuel consumers. 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 temperature compensation equipment where the average temperature

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<sup>1</sup> 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.

of the fuel dispensed is below 60 degrees and refrain from such installations where the average temperature of the fuel dispensed is above 60 degrees.

Perhaps most important, permissive temperature compensation 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 price to determine where to refuel. The use of temperature compensation equipment by an unknown portion of the retail fuel providers will greatly complicate our members' ability to determine the most economical place to refuel. Compensating and non-compensating retailers, whether located across the street from one another or across a state border, would no longer be selling comparable volumes of product, making it impossible to make an educated purchasing decision.

It took ATA a longer period of time to formulate a position on mandatory ATC. After analyzing the issue and considering its impact upon consumers of diesel fuel, **ATA has decided to oppose mandatory ATC.** The rationale underlying this decision is discussed in more detail below.

ATA and its members recognize that the retail motor fuels industry is highly competitive, with gas stations and truckstops competing fiercely to attract additional business on the basis of a penny per gallon. A fuel retailer prices fuel to cover the cost of the bulk fuel purchased and a reasonable return on its investment. In pricing diesel fuel, the retailer also must consider the prices that neighboring 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 competitive environment, inventory expansion and shrinkage must be accounted for in the retail price of diesel fuel, and any impact of temperature variances is eliminated through competitive pricing.

We are concerned that consumers such as the trucking industry will bear the cost of installing temperature compensation devices on fuel dispensers. The cost of retrofitting a retail fuel pump is estimated to be \$2,000 per pump. The expense of retrofitting or replacing existing fuel pumps would increase the retailers' cost of goods sold and we expect that this increased cost ultimately would be passed on to the consumer. For this reason, ATA is concerned that the installation of ATC devices is a solution that may be more expensive than the problem it is trying to address.

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. Ideally the price of fuel would be adjusted for its energy content (*i.e.*, BTU value), so that consumers could make a fully informed choice when purchasing fuel. BTU reductions from various renewable blends (*e.g.*, ethanol and biodiesel), have a much greater impact upon energy content than temperature.

Finally, we would like to suggest that the NCWM consider the importance of a uniform method of sale for motor fuels nationwide. In a single day, a trucker can travel through

several states and time zones. We believe it would be detrimental to our industry if various states each adopt their own systems for measuring motor fuel, with some opting for ATC, possibly others adopting methods that measure BTUs, and others continuing traditional systems of fuel measurement. We believe it is important to maintain the pricing transparency in today's marketplace that is so beneficial to fuel consumers and the trucking industry. Therefore, we would recommend that the NCWM consider new language that prohibits states from adopting ATC at the retail level. This action would ensure a unified method of sale of motor fuels throughout the United States.

We regret that we will be unable to join you at your interim meeting later this month. Unfortunately, ATA's annual Winter Leadership conference is scheduled for the same dates. We appreciate your willingness to distribute these comments and make known that the largest consumers of diesel fuel – those that would be most impacted by a change in which diesel fuel is dispensed – oppose efforts to permit or require the use of ATC at the retail level. Should you or any of the other NCWM members have questions concerning the trucking industry's opposition to ATC, please contact me at (703) 838-1910.

Respectfully submitted,



Richard Moskowitz  
Vice President & Regulatory Affairs Counsel

cc: National Conference of Weights and Measures Officials

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