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Mr. Ed Williams
Assistant Director
California Division of Measurement Standards
6790 Florin Perkins Road, Suite 100
Sacramento, CA 95828-1812

Urgent: Request for adoption of emergency regulations prohibiting installation of temperature compensating devices on retail fuel dispensing equipment.

Dar Mr. Williams:

The California Independent Oil Marketers Association (CIOMA) is asking the Division of Measurement Standards (DMS) to adopt emergency regulations which would prohibit the installation of temperature compensating devices on retail fuel dispensing equipment. We are making this request after testimony provided at the recent National Conference of Weights and Measures Interim Meeting in Albuquerque, NM indicated that there is interest in applying this technology in California markets. We believe the allowance of such equipment is premature, will create significant consumer confusion and could actually be employed to gain facility-specific advantage in sales margins. It is our understanding that DMS currently believes that it cannot stop the introduction of such equipment, and therefore we are asking for *immediate* adoption of emergency regulations prohibiting this technology application.

Here are the following reasons why we believe immediate prohibition of this technology is warranted:

- This new technology has not undergone national specification consideration. A recommendation of the NCWM Automatic Temperature Compensation Steering Committee at the interim NCWM meeting was that this equipment should be certified by the National Type Evaluation Program (NTEP). This will allow predictability and certainty in the use of automatic temperature compensation equipment nationwide, as well as rigorous testing of equipment before its commercial introduction. We understand that only one piece of equipment has gone through rudimentary certification by DMS at the present time.
- There will be no controls on when the equipment is activated. Those who employ it will be free to turn it on and off as they see fit. In the worst-case scenario, those employing the technology could turn the equipment on when they found perceived benefit, and turn it off when the customer might gain benefit.
- There is no accuracy certification for such equipment. Once it is deployed, there are no standards for testing if the equipment is accurately performing in the field.
- There are no standards for how the consumer is to be notified – on station signage; on the pump, or on the purchase receipt. How will the consumer understand what they are

receiving? And will all stations that might employ the technology use the same notifications? Without standards, significant consumer confusion and variable notification is likely.

- We believe there may be significant consumer safety and owner/operator liability issues that have not been addressed. Based upon testimony provided on at the NCWM Interim Meeting it appears that the temperature compensating equipment adjusts the volume of the fuel being dispensed. For small containers and non-automotive fuel tanks there is a distinct likelihood that a receptacle could be over-filled if the volume of fuel is greater than portrayed on the dispensing device. This, in turn, creates a consumer safety risk, exposure to toxic materials, an environmental release and greatly increases the owner/operator liability in station operation. *None of these issues have been considered by NCWM or other agencies in the discussion of the application of temperature compensating equipment.*
- Station-to-station comparisons of fuel pricing will become muddled. Without adequate safeguards and explanation, the consumer will have little understanding of dispensed values or objective comparison capability. This is akin to buying "fuel economy pills" on the internet - only the person marketing the product will know its value.

For the above reasons we ask that DMS immediately commence emergency regulation adoption proceedings prohibiting the deployment of temperature compensating equipment at retail fuel locations. Any other action will result in a substantial disservice to California fuel consumers and will create a lopsided playing field for fuel marketers - which are both contrary to the guiding missions of your Division.

An immediate response is request to this communication. Please contact me at the CIOMA office if you need further information or clarification regarding this request.

Sincerely,



Jay McKeeman,
Vice President of Government Relations and Communications

cc: Assembly Speaker Fabian Nunez
Assemblyman Mike Davis
A. G. Kawamura, Secretary, California Department of Food & Agriculture
Eric Stein, Deputy Secretary of Legislation & Policy, California Department of Food & Agriculture
Jackalyne Pfannenstiel, Chair, California Energy Commission
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