Oregon
Kate Brown, Governor

Department of Agriculture
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Representative McKeown, Chair
House Transportation and
Economic Development Committee
Oregon State Capital
900 Court Street NE, Room 453
Salem, OR 97301

RE: SB 254 – Motor Fuel Quality – Oregon Department of Agriculture

During the Oregon Department of Agricuture's (ODA) testimony regarding Senate Bill (SB) 254 on April 29, 2015, Representative Davis asked, "Is there any value in reducing the scope of your program?" This question was in reference to ODA's 97% examination rate of all retail motor fuel meters in Oregon each year and the subsequent testing of fuel at each of these locations.

We appreciate the opportunity to provide clarification regarding our examination rate of retail motor fuel meters, as well as our Motor Fuel Quality (MFQ) Program and the value these programs offer to Oregon consumers and the businesses we regulate.

Consumer Protection

Fuel Quality – Water contamination in fuel is the largest risk consumers when it comes to gasoline and is the number one fuel quality complaint to which ODA responds. A fuel system rebuild resulting from water-contaminated fuel can easily cost a vehicle owner $2,000. This number may be multiplied many times over for the fuel retailer depending on how many vehicles are affected by the contaminated fuel before the sale of the product is shut down.

The second largest risk to consumers is octane fraud. Gasoline is certified at the point of sale to have a minimum octane number. Most premium fuel, for example, is certified at 92. Unscrupulous businesses can make profit by diluting premium gasoline with regular gasoline, which can sell for as much as 30 cents per gallon cheaper. Using this 30-cent price difference, by diluting all of the premium fuel sold in Oregon (139 million gallons) by just 0.1 octane number (from 92 to 91.9) would create a financial impact on consumers of approximately $1,042,500 per year.

A Government Accounting Office report published in 1990 explored the difference in octane posting errors between states that had active motor fuel quality programs and those that did not. Eleven of twenty states with active motor fuel quality programs at that time were sampled and a 2% non-compliance rate was identified. Testing was also conducted in four states without motor fuel quality programs at that time Oregon, Tennessee, Missouri, and Michigan. In the absence of regular inspections, the investigators found non-compliance rates from 20% (Oregon & Tennessee) to as high as 50% (Missouri & Michigan) with posting errors of 1.5 octane numbers or more being typical. These four states now have active motor fuel quality programs.

The ODA has adopted testing strategies aimed at identifying real problems with the minimum of effort and expense by relying on field screening and paper audits in lieu of widespread sampling and testing where it is effective.

Meter Examination - With over $6 billion of motor fuel sales in Oregon annually, having accurate retail motor fuel meters in the market place is a top priority for the ODA. With this level of sales volume and a rejection percentage of near 12% for all fuel meters, one can imagine the economic impact to consumers if out-of-tolerance meters were allowed to remain in service for any extended period of time. As an example, if the 1,728 retail motor fuel meters (F meters) that were found to have tolerance issues in 2014 were allowed to remain in service for the entire year, the estimated economic impact on Oregon consumers (or the business if the meter was giving away to much product) would be $788,497.

Currently, we maintain a high level of compliance in all parts of the state, with very low levels of enforcement activity. Business owners know that we are going to show up unannounced during the year to do an inspection; They develop a relationship with our inspectors which ultimately enables us to convince them of the value of maintaining compliance without taking more expensive heavy handed legal actions.

Level Playing Field

Gas stations operate on a very slim margin and if one station owner can knock the price down a few cents by product dilution or other possible fraudulent tactics then customers will be lured in. The consumer has many options when it comes to fuel sales and they will literally shop pennies which puts tremendous pressure on neighboring gas stations to match each other's prices. These market pressures will inevitably tend to drive all of the industry to do whatever is necessary to compete even if it means, for a very few, adopting fraudulent tactics to gain the advantage. When the weights and measures inspector finishes an inspection at one gas station and that owner sees our truck move right on into his competition's store next door or across the street, he/she knows that Weights and Measures is making an efficient use of our time by working systematically and that their competition is being held to the same standards of meter accuracy and fuel quality.

Industry Support

The industries that we regulate through the Weights and Measures (W&M) and Motor Fuel Quality (MFQ) Programs has come to appreciate and value the current level of service ODA has been able to provide, based on the device license and MFQ fees they are charged. The ODA has worked hard over the years making investments in technically trained staff and specialized equipment in order to build the infrastructure necessary to provide these annual examinations. When fuel meters become out-of-tolerance, often times they are giving to much product away. The one inspection a year that ODA provides is an inexpensive assurance that the fuel meters are accurate and that the business is able to better control their inventory. When a meter fails the errors can be huge and the business owner may not know about it until a significant inventory problem occurs. When ODA tests all of the devices onsite, this leaves the business owner in a position to target their service calls carefully saving the expense of having a service technician survey the entire site looking for the problem meter(s).

As mentioned in our testimony, we have consulted with our industry partners as to whether they think there is merit to raising the annual MFQ fee assessment. They have all came out in support of the graduated increase from $150,000 per year to $300,000 per year over the next four years. We would emphasize that this is an entirely fee funded inspection program, we do not use general fund money to fund our inspection program, and maintaining a near 100% inspection cycle assures our regulated partners that we are using the money they pay for their benefit.

Sincerely,

Lauren Henderson
Assistant Director