



**Automatic Temperature Compensation (ATC)
for Retail Motor-Fuel Devices
Proposed Changes to California Code of Regulations, Title 4, Chapters 1 and 7.**

Notice of Informal Pre-Rulemaking Workshop

The California Department of Food and Agriculture (Department), Division of Measurement Standards, is conducting an informal pre-rulemaking workshop to develop proposed regulatory language pertaining to retail motor-fuel devices that are equipped with automatic temperature compensation (ATC). When installed and activated in a retail motor-fuel device, ATC is an automatic means for adjusting indication and registration of the measured product volume to volume at 15 degrees Celsius (60 degrees Fahrenheit).

Tuesday, November 27, 2018
10:00 a.m. – 12:30 p.m.
California Department of Food and Agriculture
1220 N Street
First Floor, Auditorium
Sacramento, CA 95814

Purpose

The purpose of this informal pre-rulemaking workshop is to provide stakeholders an opportunity to offer comments and suggestions on the proposed regulation that will modify, amend, and reject language in California Code of Regulations (CCR), Title 4, Division 9, Chapters 1 and 7. The proposed regulation is intended to provide clear guidance to equipment manufacturers and to owners/operators of retail liquid-measuring devices who elect to install and use automatic temperature compensated retail measuring equipment. This proposed regulation is permissive and does not require owners/operators of retail motor vehicle fueling stations to install and activate ATC in their retail motor-fuel devices.

The Department currently adopts by reference in CCR, Title 4, § 4000 the latest publication of the National Institute of Standards and Technology (NIST) *Handbook 44, "Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices,"* including Section 3.30. Liquid-Measuring Devices. The proposed

regulation will amend the NIST *Handbook 44* standards adopted by the Department to establish requirements for ATC when installed and used in retail motor-fuel devices.

Background

Like many other liquids, fuel experiences expansion and contraction with temperature change. A retail motor-fuel device may be equipped with an automatic means for adjusting the indication and registration of the measured volume of product to the volume at 15 degrees Celsius (60 degrees Fahrenheit).

State law requires the use of ATC for wholesale sales of gasoline or diesel fuel. Business and Professions Code § 13520 requires gasoline and diesel fuel distributors or brokers to invoice their customers for purchases of 5,000 gallons or more for a single delivery to a single location on the basis of temperature-corrected volume. Similarly, NIST *Handbook 44* Section 3.30. specifies that wholesale devices equipped with ATC are required to automatically adjust the delivered volume of motor-fuel to an equivalent volume delivered at 15 degrees Celsius (60 degrees Fahrenheit).

The Department is the only state agency responsible for weights and measures enforcement and authorized to promulgate regulations for measurement standards. Business and Professions Code § 12107 provides that the Department shall adopt NIST Handbook 44 tolerances, specifications and other technical requirements, except as specifically modified, amended, or rejected by regulation.

Currently, CCR § 4001 contains the California-specific exceptions to NIST *Handbook 44*. CCR § 4002 contains the California-specific additions to NIST *Handbook 44*. This proposed regulation will add further exceptions and additions for the use of ATC in retail sales of liquid motor vehicle fuels. The proposed regulation will also specify in CCR Chapter 7 what information is required on fuel price sign advertisements when temperature compensated sales are offered from a retail motor fuel location. This information is necessary to enable the public to make value comparisons and informed purchasing decisions.

Stakeholder Comments

Oral comments: The Department will accept oral comments during the informal pre-rulemaking workshop. All stakeholder comments and suggestions will be reviewed and considered by the Department as it develops formal regulatory language.

Written comments: The Department will accept written comments regarding this proposed regulation at the workshop and until 5:00 p.m. on December 12, 2018.

Submit written comments to:

Samuel Ferris, Senior Environmental Scientist
California Department of Food and Agriculture
Division of Measurement Standards
RE: ATC rulemaking
6790 Florin Perkins Road, Suite 100
Sacramento, California 95828

In accordance with the Administrative Procedure Act, the Department will conduct a 45-day public comment period upon publication of the Notice of Proposed Rulemaking.

Pre-rulemaking comments may also be submitted by facsimile (FAX) at (916) 229-3026 or by e-mail to dms@cdfa.ca.gov. Please include "ATC Rulemaking" in the subject line of any FAX or email related to this rulemaking.

Please note that pre-rulemaking written and oral comments, attachments, and associated contact information, may become part of the documents relied upon and included in the formal regulatory package submitted to the Office of Administrative Law (OAL).

Remote Access

Any interested person, entity, or representatives of that person or entity may participate in this informal pre-rulemaking workshop via GoToWebinar. The presentation will appear on your computer screen, and you may listen to audio via your computer or telephone. Please be aware the Department may make an audio and video recording of this informal pre-rulemaking workshop to accurately capture all stakeholder comments and suggestions.

To participate via GoToWebinar, register using the link below:

Registration URL: <https://attendee.gotowebinar.com/register/6971449472502838529>
Webinar ID: 344-533-035

After registering, you will receive a confirmation email containing information about joining the webinar. If you have difficulty joining the webinar, please call the GoToWebinar Technical Support at (877) 582-7011 or visit their website at: <https://support.logmeininc.com/gotowebinar/how-to-join-attendees>

Availability of Documents

Prior to the pre-rulemaking workshop, the proposed text will be available online at: <http://www.cdfa.ca.gov/dms/regulations.html>.

The proposed text, Initial Statement of Reasons, and Notice of Proposed Rulemaking will also be posted on this website when the Notice of Proposed Rulemaking is published by OAL in the California Regulatory Notice Register.

Americans with Disabilities Act Access

All meeting facilities are accessible to persons with disabilities. If you need reasonable accommodation as defined by the Americans with Disabilities Act, or if you have questions regarding the public meeting, please contact Samuel Ferris at (916) 229-3000. Requests for reasonable accommodation should be made no later than three (3) working days before the meeting.