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July 28, 2010

From: John Manske, Cooperative Network

To: Senate Committee on Agriculture and Higher Education

RE: Comments on CR 09-105

Cooperative Network represents 600 cooperatives, mutual insurance companies, and credit unions owned by approximately 2.9 million Wisconsin members. Among our members are 50 local farm supply cooperatives and the regional farm supply cooperatives CHS Inc., Land O'Lakes, and Growmark. Our comments reflect the position of our farm supply committee, which reviewed the proposed rule CR 09-105, revising ATCP 92, relating to weights and measures licensing and fees at their meeting early this year. Thank you to chairwoman Vinehout for scheduling this hearing on the rule today.

Cooperative Network supports the mission of the state weights and measures program and firmly believes that assuring the accuracy of scales and metering devices is an important factor in assuring the integrity of transactions between consumers and businesses. Our members also rely on the accuracy of such devices for their own purchases and for managing their inventories.

With that said our members are particularly concerned about the proposed fee increases for scales and liquefied petroleum gas and vehicle tank meters found in the rule that was submitted to the legislature. As a result of the June 22, 2010 motion of the Assembly Committee on Consumer Affairs asking DATCP to consider unspecified modifications to the rule, DATCP brought together stakeholders at July 16 and July 20 meetings. This was our first opportunity to directly raise concerns with them about the fees. We were surprised, but pleased to learn at that first meeting that due to lower staffing expenses resulting from unfilled positions, the future fiscal situation of the weights and measures program does not look as dire as previously forecast. In fact, DATCP was willing to cut the proposed new fees and fee increases in half across the board. With that reduction, DATCP's forecast for the program revenue account showed a closing balance of over \$200,000 even at the end of FY 2016. The latest DATCP proposal, which appears to be their "bottom line" position, would cut back fees to 45% of the original proposal. That still shows a closing balance of over \$146,000 at the end of FY 2014. Our issues with that latest proposal are as follows:

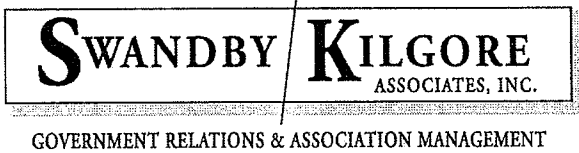
- Numerous raids on program revenue and segregated fund balances and the lapse of funds from programs across nearly all agencies have become common. The weights and measures program is not an exception. Our members have given us explicit instructions to advocate keeping program balances in line with expenses, so as to avoid the potential that program revenues will be used for unintended purposes. We favor a smaller closing balance in the program revenue than is indicated in the 45% DATCP proposal.

- Under current law, our members are required to have their meters and scales calibrated annually for accuracy by state-licensed weights and measures service companies. Most of our members literally spend thousands of dollars annually for these services. These annual calibration requirements significantly overlap state weights and measures inspections of the same devices over the same period of time. A checks and balances system is an important component of a regulatory program. However, we believe the department should explore efficiencies that could be achieved with a greater reliance on third-party annual meter calibrations. This has been a part of the discussion at the meetings with stakeholders though it appears that DATCP favors the “status quo” on this matter.

During these very difficult economic times our cooperative members often share stories of their members’ financial challenges. With the information we have, revenues derived from this rule-making will exceed the estimated need, even with fees at 45% of the original proposal. While we support the weights and measures mission we also need to be responsible to our members.

During the July 16 and 20 meetings, stakeholders have raised numerous questions and concerns that are beyond the scope of the rulemaking. Matters relating to the appropriate mix of program revenue, general purpose revenue, and segregated revenue, and the delivery system of weights and measures programs between the state and local governments will be directed to a new administration and a legislature populated by many new members in 2011. In light of all the new policy makers that will be coming to Madison in January, we do not believe that it is appropriate to approve program revenue fees that are projected to result in generous closing balances in the weights and measures account at least through FY 2014.

Thank you for considering our comments.



GOVERNMENT RELATIONS & ASSOCIATION MANAGEMENT

July 28, 2010

**MEMORANDUM**

**TO:** Members of the Senate Committee on Agriculture and Higher Education  
Senator Kathleen Vinehout, Chairperson

**FROM:** Kathi Kilgore, Lobbyist  
Wisconsin Association of Campground Owners

**RE: CR 09-105 – Opposed to LP Gas Meter Fee as Proposed**

The Wisconsin Association of Campground Owners (WACO), representing approximately 200 campgrounds across the state, opposes the LP gas meter fee as proposed in CR 09-105.

A vast majority of our members sell LP gas at their campgrounds. For some, they simply exchange LP gas tanks, but a large number of our members also fill LP gas tanks at their business. Some of the WACO members own their own LP equipment and some lease it from a larger LP gas company. Regardless of the situation, if my members fill LP gas tanks at their campground, they will have to pay more for the privilege to do so.

The volume my members pump is low and the margins for the business are small so the fee increases as proposed would have a disproportionate effect on campgrounds. This could lead to fewer campgrounds offering the service – the campground could choose to stop filling LP tanks and no longer use the equipment they own or the LP company that owns the equipment would remove it from the campground.

I have been told that in some tourism areas, like the Wisconsin Dells, and some rural areas, that the local campgrounds are one of the only places to have LP gas tanks filled, particularly over the weekend.

But the public will be the real loser if this rule goes forward as proposed. The general public could have fewer outlets for LP gas and higher prices.

We have been a part of the meetings with DATCP to reach a compromise on the proposed fee. We are hopeful that an agreement will be reach soon that provides the lowest fees possible to my members yet satisfies the needs of the Weights and Measures Program without creating a surplus. Thank you for your consideration.



**Wisconsin Propane Gas Association**

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July 28, 2010

Testimony on CR 09-105 Concerning Weights and Measures Licensing Fees for Propane Meters

Dear Senator Vinehout and Committee Members,

Good morning, I am Betsy Ahner, Executive Director of the Wisconsin Propane Gas Association. The WPGA represents 160 propane retailers and their suppliers in the state of Wisconsin.

I am here to speak against the proposed changes to ATCP 92. These proposed fee increases will add to an already heavy fee and tax burden, make it more difficult for propane to compete with other forms of energy, and likely decrease service to a segment of Wisconsin's tourism industry, all without increasing service or improving meter accuracy.

In Wisconsin, propane is largely used to heat homes. One member told me his business is 90% residential, 5% agriculture and 5% industry. The nature of this industry means the jobs for delivery drivers, service professionals and office staff are largely in rural areas. Yet in rural Wisconsin, propane is facing increasing pressure from wood burning stoves, geothermal systems, and the expansion of natural gas pipelines. In 2009 in the Midwest alone, natural gas pipeline companies added 606 miles of pipeline, in anticipation of new supplies from coal shale fields in the Appalachians and Rockies. In addition, due to fierce competition, Wisconsin propane retailers have one of the lowest markups from wholesale to retail in the Midwest.

Larry's LP in Webster is a small company who in May paid \$186 for a meter inspection and in July paid \$250 for a HAZMAT fee for each bobtail delivery truck they own. If this rule goes through, in November they will have to pay a meter license fee for each propane meter. That will add up to over \$500 per delivery truck, not including DOT license fees or insurance to cover the vehicle and driver. Never mind the driver's salary and benefits.

Peoples Community Oil Cooperative of Lancaster wrote in June that they "a relatively small company feel that the increase of the fee would impose a financial hardship on our company as it is not likely that we will be able to pass it on to the consumer."

DATCP Weights and Measures have repeatedly made the point that propane meters are not as accurate as gasoline pumps, but they have not shown that this license fee will increase the accuracy of propane meters. Gary France of France Propane Service of Schofield has said that the new electronic meters are extremely accurate compared to the older meters of 30 years ago. He, like many of our members, is adopting new technology to improve efficiency, cut costs and remain profitable. Gary expects the State to do the same.

Currently our members are required to have their meters calibrated annually at an average fee of \$160 per meter. Any license fee will be additional annual expense. Wisconsin has reputable and capable professional meter testing and calibration companies and several of our members have commented that they would like to see Wisconsin follow the Minnesota model of privatization. There would be no need for DATCP Weights and Measures staff to transport an expensive meter proofing machine around the state to test propane meters. Since propane meters are proven to fail in favor of the customer 60% of the time, our members are motivated to have their meters calibrated, and some are doing it twice a year.

Finally, a number of our members work with campground owners to provide propane for the 40 – 60 pound tanks used in recreational vehicles. Meters on those tanks have much less throughput than a delivery truck which fills tanks with a 500 – 2000 gallon capacity. One WPGA member bluntly said that if he has to pay a \$140 license fee for a campground meter, he may pull the tank. The possibility that RV owners will drive into the nearest town to have their RV tank filled is clearly a safety issue because even an empty tank has a small amount of propane. If the valve is not tightly closed propane can leak into the vehicle and propane vapor like gasoline vapor is explosive. We also believe these small throughput meters are not regularly inspected by Weights and Measures. These meters and similar meters at other outlets like hardware stores should not be licensed at the same fee level of higher throughput meters or they should be exempt from annual license fees.

Thank you for recognizing that to transition from a onetime \$25 registration fee for a propane meter with a life expectancy of ten years to a \$140 per year annual license fee is excessive. The originally proposed reinspection fees of \$360 and fines of \$350 are also very high.

We appreciate the work that has been done so far to resolve this matter and we will continue to work with all concerned. We also intend to continue working with the Department on issues like meter accuracy and privatization that cannot be resolved through this rule.

Considering current economic climate, the WPGA supports the position that a fee increase is not necessary at this time.

**Weights and Measures Program Revenue Appropriation**

Original DATCP Numbers (w/no fee increase)

Projected Fund Condition	FY09	FY10	FY11	FY12	FY13	FY14	FY15
Opening Balance	546,524	508,443	365,443	106,343	-89,007	-319,007	-549,007
Continuing Revenues	1,174,555	1,249,100	1,225,000	1,225,000	1,225,000	1,225,000	1,225,000
Expenditures	1,203,536	1,268,200	1,360,200	1,420,350	1,375,000	1,375,000	1,375,000
Expenditures - Major Equipment					80,000	80,000	
General Fund Lapse	9,100	123,900	123,900				
Closing Balance	508,443	365,443	106,343	-89,007	-319,007	-549,007	-699,007

**Revised Numbers as of 7/15/2010**

With fees at 50% of the original proposed amount

Projected Fund Condition	FY09	FY10	FY11	FY12	FY13	FY14	FY15
Opening Balance	546,524	508,443	365,443	223,768	252,258	246,098	239,938
Continuing Revenues	1,174,555	1,249,100	1,225,000	1,225,000	1,225,000	1,225,000	1,225,000
Revenue from Fee Increase			117,425	223,840	223,840	223,840	223,840
Expenditures	1,203,536	1,268,200	1,360,200	1,420,350	1,375,000	1,375,000	1,375,000
Expenditures - Major Equipment					80,000	80,000	
General Fund Lapse	9,100	123,900	123,900				
Closing Balance	508,443	365,443	223,768	252,258	246,098	239,938	313,778