



DEPARTMENT OF
ECOLOGY
State of Washington

Concise Explanatory Statement
Chapter 173-422A WAC
Motor Vehicle Emission Testing

Summary of rule making and response to comments

July 2011
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Publication and Contact Information

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For more information contact:

Air Quality Program
P.O. Box 47600
Olympia, WA 98504-7600

Phone: 360-407-6800

Washington State Department of Ecology - www.ecy.wa.gov

- Headquarters, Olympia 360-407-6000
- Northwest Regional Office, Bellevue 425-649-7000
- Southwest Regional Office, Olympia 360-407-6300
- Central Regional Office, Yakima 509-575-2490
- Eastern Regional Office, Spokane 509-329-3400

Ecology publishes this document to meet the requirements of the Washington State Administrative Procedure Act (RCW 34.05.325)

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Concise Explanatory Statement

Chapter 173.422A WAC Motor Vehicle Emission Inspections

Air Quality Program
Washington State Department of Ecology
Olympia, Washington 98504-7600

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Introduction

The purpose of a Concise Explanatory Statement is to:

- Meet the Administrative Procedure Act (APA) requirements for agencies to prepare a Concise Explanatory Statement (RCW 34.05.325).
- Provide reasons for adopting the rule.
- Describe any differences between the proposed rule and the adopted rule.
- Provide Ecology's response to public comments.

This Concise Explanatory Statement provides information on The Washington State Department of Ecology's (Ecology) rule adoption for:

Title: Motor Vehicle Emission Inspections
WAC Chapter(s): Chapter 173-422A WAC
Adopted date: August 10, 2011
Effective date: July 1, 2012

To see more information related to this rule making or other Ecology rule makings please visit our web site: www.ecy.wa.gov/lawsandrules

Reasons for Adopting the Rule

Federal law requires emission testing if air quality standards are not being met because of vehicle emissions. Washington's legislature has required change, to the current Emission Check Program. These changes are codified in RCW 70.120.170 2(d) and RCW 70.120A.010(2).

Changes in state law that require the new rule are:

- Additional businesses including automotive repair businesses other than the operator of the vehicle emission test stations will be authorized to emission test vehicles starting July 1, 2012. RCW 70.120.170 2(d)
- 2009 model year and newer vehicles will be exempted from testing. RCW 70.120A.010(2)

Also, program changes to reduce the impact of emission testing on vehicles owners will be considered, such as:

- Exempting from testing additional vehicles including diesel vehicles with engines built to meet the federal 2007 heavy-duty tailpipe emission standards or retrofitted with an exhaust particulate filter.
- Streamlining testing procedures such as eliminating gas cap checks and the dynamometer testing of gasoline vehicles.
- Clarifying and simplifying wording.

Differences Between the Proposed Rule and Adopted Rule

RCW 34.05.325(6)(b)(ii) requires Ecology to describe the differences between the text of the proposed rule as published in the *Washington State Register* and the text of the rule as adopted, other than editing changes, stating the reasons for the differences.

There are no differences between the proposed rule filed on March 2, 2011 and the adopted rule filed on August 10, 2011.

Response to Comments

Description of comments:

Ecology split each comment letter into separate comments by subject matter. Those comments were then taken with as little editing as possible and arranged by rule section. Each comment is identified by commenter using the Commenter Index below. Responses are directly below each comment. If several comments were related and on the same topic, then one response was given below all of the related comments. Appendix A of this document contains all of the comments received during the public comment period in their original form, including attachments.

Ecology accepted comments between March 2, 2011 and March 31, 2011. This section provides verbatim comments arranged by rule section that we received during the public comment period and our responses. (RCW 34.05.325(6)(a)(iii))

Commenter Index

Commenter identification:

The table below lists the names of organizations or individuals who submitted a comment on the rule proposal and where you can find Ecology’s response to the comment(s). Commenters are arranged in the order that the comments were received. Identification codes beginning with “V” were submitted orally at a public hearing. Identification codes beginning with “W” were submitted in writing. The “Responses in Section” column lists each section that contains a response to that commenter.

<u>Commenter</u>	<u>Identification Code</u>	<u>Responses in Section:</u>
Paul Chamberlin, Clark Public Utilities	W-1	WAC 173-422A-340 Authorized testers(1)(a)
Geoff Williams, Automotive Central Service	W-2	WAC 173-422A-020 Definitions (waiver), WAC 173-422A-030 Vehicle emission test requirement and testing schedule for private and United States government vehicles, WAC 173-422A-050 Emission test areas,
Fred Wilson, High Road Automotive	W-3	WAC 173-422A-060(9) Exemptions, WAC 173-422A-100(1) Gasoline vehicle emission test standards(1) and (2)(c), WAC 173-422A-340 Authorized testers
Tim Hamilton	W-4	WAC 173-422A-340 Authorized testers (general)
Washington Retail Association	W-5	WAC 173-422A-340 Authorized testers (general)
Merle Pfeifer	V-1	WAC 173-422A-020 Definitions (waiver), WAC 173-422A-340 Authorized testers(1)(a)
Scott Morris, Heartland Automotive	V-2	WAC 173-422A-340 Authorized testers
Steve Swanlund, 15 th St. Automotive	W-6	WAC 173-422A-020 Definitions (waiver), WAC 173-422A-340 Authorized testers
Blaine Sells, Kent School District	W-7	WAC 173-422A-220 Diesel vehicle testing equipment specifications, WAC 173-422A-340 Authorized testers(1)(a)
Mike Kenney, Spokane Educational Service District 101	W-8	WAC 173-422A-220 Diesel vehicle testing equipment specifications.

Comments and responses

Ecology accepted comments between March 2, 2011 and March 31, 2011. This section provides verbatim comments arranged by rule section that we received during the public comment period and our responses. (RCW 34.05.325(6)(a)(iii))

WAC 173-422A-020 Definitions

“waiver”

Comment W-2

There should be no waivers for emission testing. PERIOD. A \$150 fee for servicing the vehicle with a check engine light on is a license to steal for the repair shop. On some of the newer vehicles a check engine light can come on for brake failure. But because the check engine light is on, the vehicle fails emission. That is not the designed intention of the system.

Ecology response: State law requires that this waiver be available to vehicle owners. A vehicle fails only if there are emission codes commanding the check engine light on.

Comment V-1

I am in favor of decentralizing the emission testing in the state of Washington. However, after reviewing some of the questions earlier from Raymond, I do see some flaws and I do see some things that need to be addressed, at least in the rules area.

One of those would be that I believe that decentralized station should be allowed to do waivers. It doesn't make sense for a customer to come into a business and fail their emissions, then have to go to a centralized station that may be 15 or 20 miles away to have the waiver written. It just doesn't make common sense. Actually, to do this, one of the reasons we're doing it is to provide customer service, and I think that would be detrimental to a customer.

And Comment W-6

There should be language regarding the ability of the decentralized test facility to administer waivers to vehicles that meet the minimum requirements but do not satisfy the test standards. If the Dept Of Ecology is going to trust us to test these vehicles they should have faith in us that the waiver process will also be held to a standard.

Ecology response: Ecology's contractor can provide a repair waiver to a vehicle owner whose vehicle fails a retest and notify the Department of Licensing so the vehicle can be relicensed. The proposed rule does not prevent Ecology from directing the contractor to process certifications by authorized testers that all the conditions for obtaining a waiver have been met. How this could be done and audited would need to be developed. As a minimum, the receipts for the repairs that qualified the vehicle for a waiver will need to be available for Ecology review.

WAC 173-422A-030 Vehicle emission test requirements and testing schedule for private and United States government vehicles

Comment W-2

Who is going to regulate when the vehicle needs to come into the shops to be tested? Currently it is the DOL when they send a renewal notice for the license plates. Is that still going to be the means of notification?

Ecology response: Yes. The Department of Licensing will continue to notify vehicle owners that an emission test is required on the renewal notice and when a renewal is attempted online without a required emission test. The information on which vehicles need to be tested will also be available online. In addition, Ecology intends that the testing equipment alert the tester when the vehicle has been tested within the last 365 days.

173-422A-050 Emission test areas

Comment W-2

Last statement. If a vehicle is being driven on any state, county, city, or rural road in WA that smokes from the tail pipe and is seen by local law enforcement, those vehicles should be stopped and given a citation for smog producing vehicle and ordered to test the vehicle, regardless of age of vehicle, location in the state, and what state the vehicle is registered in. The reason why I say this, because vehicles over 20 years old are becoming more common and once they get past the golden age emissions testing is not conducted and becomes neglected. Why test for a few vehicles, when there are more than a few on the road?

Ecology response: State law does allow a traffic enforcement officer to issue a ticket for excessive smoke from a vehicle anywhere in the State. However, state law limits where emission testing can be required based on vehicle age and location.

WAC 173-422A-060(9) Exemptions, Honda Insight and Toyota Prius model vehicles

Comment W-3

Other Hybrids are not included? Honda, Toyota, Lexus and others.

Is this all Insight models or just the new one?

This section seems to arbitrarily exclude some vehicles of identical and/or similar design. Was an efficiency formula used to arrive at this limitation?

I was advised that current ecology policy states that Hybrids are all exempt. Is this incorrect?

Ecology response: State law exempts all 2009 and newer vehicles, including the second-generation Honda Insight. State law also exempts hybrid vehicles with high fuel economy ratings. Prior to 2009 model years, the only vehicles to meet this standard are the Honda Insight and Toyota Prius. The EPA has revised their rating methods, lowering the mileage estimates for all vehicles. Currently no vehicles qualify for an exemption based on the new EPA estimates. However, to

avoid confusion we proposed continuing the exemption of the Honda Insight and the Toyota Prius vehicles by rule.

WAC 173-422A-100(1) Gasoline vehicle emission test standards

Comment W-3

New higher limits: 1995 and older CO 3.0% HC 400 ppm.

In my experience this HC limit will allow some older vehicles with geriatric engines and catalysts to skip the fail – diagnose – customer refuse repairs – retest – waiver process that is the most common track for these units. Is this the intent of this proposed rule? They usually need both engine and catalyst which far exceeds the units' value.

The proposed CO limits are not reasonable in my opinion. CO failures are more frequently fuel control system failures that are repairable a reasonable cost that makes economic sense to an average unit owner.

Further, many systems default to CO values near 3.0% when active fuel control is lost. This could result in Fail at test station; Pass at repair facility ping pong effect.

Ecology response:

The program only reduces pollution through proper repair of vehicles, primarily gross polluters. Our data suggest older vehicles failing emission tests for CO at the lower level are more often waived rather than repaired. Requiring the same standard for both cars and trucks will reduce the financial impact on vehicle owners without significantly affecting air quality.

WAC 173-422A-100(2)(c) Gasoline vehicle emission test standards

Comment W-3

I agree that this requirement is needed as it closes a loophole in the current testing program. It will likely meet with some resistance from techs and/or shops as it requires drive cycle testing that is not always currently performed. My experience teaching program technicians suggests that many are poorly versed in this process. Further it requires time that can be difficult to sell to a customer: "I need to pay for you to drive my car" is the common comment of repair customers.

Ecology response: Thank you for agreeing that for a vehicle to pass a retest, the monitor(s) that commanded the check engine light on during the initial test must be ready to report. We agree that vehicle owners and technicians would benefit from more information regarding the type of driving needed to pass an OBD test. We are working on making this information more widely available.

WAC 173-422A-220 Diesel vehicle testing equipment specifications

Comment W-8

Good morning John and Mike. Allan Jones the State Director for Student Transportation with the Office of the Superintendent for Public Instruction ask me to respond to your PRM as I am the school bus specifications coordinator. As you recall we partnered with Ecology and the WSP in 2004 with an emissions testing program. Through a grant from Ecology we purchase nine opacity meters and trained the WSP inspectors to test every bus in the state. We now have those testers out on loan to our school districts in the test areas around the state. We would like to work with

Ecology to ensure that our districts would be able to continue to use these monitoring devices. We also have worked with Ecology on retrofitting most district buses with particulate traps. In reading the proposed rule changes we see some issues with test equipment specifications and vehicle exemptions. We are sure we will be able to work with Ecology to make sure our school districts continue to meet the requirements of the new regulations and keep the cost to the districts as low as we can. We look forward to continuing this valuable partnership. Thanks.

Ecology response: The rule allows Ecology to approve alternative test procedures. We can also approve which equipment is allowed. We will evaluate how the new rule and contract changes may impact private and public fleets.

WAC 173-422A-340 Authorized testers

General

Comment W-4

Dear Mr. Raymond,

As you may remember, the Automotive United Trades Organization (AUTO) is a nonprofit trade association representing motor fuel marketers and automotive service retailers in Washington state.

AUTO and its members believe that a program administered by Ecology that creates competition between a number of small businesses would improve efficiencies and services for consumers compared to the current monopolistic system tied to one provider with limited facilities. A decentralized system would also provide consumers with a wide range of testing stations from which to choose at no additional cost to the state or the consumers. It would also help small businesses that reinvest their profits in cities and towns of this state to retain or add employees which would help local economies.

Unfortunately, I have a previous commitment and will not be able to attend the meeting tomorrow evening. Please use this communication to register our support for the decentralization of emission testing.

Respectfully,
Tim Hamilton

And Comment W-5

Dear Mr. Raymond:

The Washington Retail Association strongly supports the proposal to privatize the state's auto emissions inspection program.

The idea offers several advantages to businesses, state government and the citizens of our state. These include:

***More facilities** from which customers could choose.

***Lower wait times** as a result of more locations and the convenience of being able to combine emissions inspections with other routine maintenance such as oil changes and brake inspections.

*The prospect of **lower inspection fees** due to competition among repair shops.

*A sorely needed **new source of revenue for local shops** that then might be able to make hires and help our economy recover. Revenues from emissions inspections currently go to an out-of-state company.

***Financial relief for state government**, currently wrestling to address a revenue shortfall of more than \$5 billion.

In summary, privatizing our emissions testing requirement will help our economy, provide an incentive to reduce costs and offer the state some of the relief it needs to recover from a financial crisis. I appreciate your consideration.

Sincerely,

Jan Teague

President/CEO

Washington Retail Association

Ecology response: State law requires Ecology to continue to have centralized, contractor-provided emission testing in addition to the decentralized program.

And Comment V-2

Thank you, Melanie. My name is Scott Morris and I work for Heartland Automotive. Currently we're the largest DBA of the franchise, Jiffy Lube. Currently we have 85 locations here in this area that would provide a tremendous amount of convenience to the citizens here. We've been in the inspection business for a while. We were covered in seven states. We cover vast programs to emission-only testing to safety-only testing to safety and emission testing.

There's a lot of good and positive feedback that we can get from the decentralized location, and I took some notes here and I'd like to share it real quick. As the young man stated earlier, customer convenience, as business owners and shop operators we're constantly focusing on the guest's perception and how they view us, because there's a lot of people out there that perform quality work, and if we do not satisfy them within our doors they're not coming back. So the guest convenience is the most important thing.

With our 85 locations, we would obviously decrease the drive time, obviously decrease wait time. We would have more facility coverage for testing and has added more inspection lanes.

As far as the economic value in it, it's very simple. It would produce local capital circulation. It increases revenue for small businesses, higher traffic counts for private businesses, new and lucrative revenue streams created for private businesses, the ability to capture more peripheral automotive repair for a lot of repair facilities in here. You could get the repair. You have the licensed technician. You're gonna just hand it off to a licensed technician that is now licensed in the automotive repair.

For us, we would not get into the repair so much, as far as the hard part repair, replacing O2 sensors, cats, et cetera. So if we're doing the test, we're gonna hand it off to some of you in the audience as far as the repair stations, and we're a partner in this business.

The inspection stations will be diverse and I just touched on that. However, there's always integrity in every program. If there's an OBD testing, then you're gonna have what they call clean

scanning. If you're doing tailpipe testing, it's called clean piping. There's manipulations to the test no matter where you go. With more of a decentralized program and with everybody in here, 'cause it seems like the majority is after the decentralized program, then we become the pillars of the inspection program. We become the integrity and we become the character.

When you still have that centralized vendor out there, that's where you're gonna cause problems. You have – I'm just throwing out numbers here – you have one person in charge of one and one person in charge of the other. "Well why is that?" "Well, I can get it done over here." "But you can get it done here faster." "Well I don't want to wait." It creates chaos in the community, and at some point in time we're gonna stand on that side of the fence and we're gonna have to endure that chaos, not only as a person needing our vehicle inspected, but a person trying to create the business.

With the current stations going into a decentralized program, you can use the current infrastructure that the state has in place now. So there's not gonna be any increased revenue onto the state. Maybe in a compliance issue, now you have more stations. Instead of having six local stations, now you're gonna have 300. Now you have a little bit more of a compliance issue, so there's a little bit of added cost, but the state can raise that price of that per certificate or per sticker to justify that value or to that cost to them in the monitoring of the program.

Again, we operate in seven different states and a decentralized program is not only good for the community, but as well as local business owners. Thank you.

Ecology response: State law requires the Emission Check Program include centralized testing by Ecology's contractor in addition to allowing testing by businesses other than the contractor.

Comment W-6

Thank you for your informational meeting tonight regarding the the new rule changes to the Air Quality Program. I would like to submit an official comment on the subject.

1) There should be a language regarding the requirements of the decentralized test facilities and the personnel performing those tests. I feel that the personnel should be current and in good standing Authorized Emission Specialists (AES) and they should have some history with the program. Allowing any business that merely has the capital to invest in the equipment requirements become a test facility will open the program to unscrupulous and possibly fraudulent practices. By allowing ONLY those that have a good history in the current program become test facilities you will know that the program is going to be held to high standard.

Ecology response: Ecology recognizes that authorizing additional businesses to test vehicles increases the opportunities for fraudulent testing. Ecology will authorize testers and currently has not decided on all of the criteria for such. We will keep your comment in mind as we develop the program.

(1)(a)

Comment W-1

For Clark Public Utilities as a public fleet, what does the statement below mean? Will this information be entered on a DOE website by the technicians or what, using the same type of format?

Having all testing done by authorized testers using the state contractor's computer system.

Ecology response:

The way fleet testing occurs will change. All testing must be done by the contractor or an authorized tester. A fleet will need to contract with an authorized tester, become an authorized tester or take their vehicles to a test station. We have flexibility within the rule to accommodate public and private fleets.

Comment W-3

(3) The testing equipment must be able to perform the test online unless ecology grants prior approval. WAC 173-422A-340 Authorized testers. (1) Authorized testers must meet the following conditions:

(a) Use ecology approved testing equipment. The test must be done on-line unless ecology grants prior approval.

What equipment currently available meets this requirement?

Ecology response: Once information on the testing equipment is available it will be posted on the RSS feed for automotive technicians.

(1) (b)

Comment W-3

WAC 173-422A-340 Authorized testers. (1) Authorized testers must meet the following conditions:

(a) Use ecology approved testing equipment. The test must be done on-line unless ecology grants prior approval.

(b) Follow the testing procedure described in section 110 for gasoline vehicles and section 210 for diesel vehicles.

What equipment will be needed for an Authorized Tester? Will current commonly used test equipment suffice?

Will an authorized tester be required to perform both OBD and tailpipe testing? OBD only testing could entice more shops to participate in a testing program. Tailpipe testing is in decline and equipment for it is expensive; this would be a deterrent to entering into this program.

Ecology response: Ecology intends for a contractor to provide the testing equipment to the authorized testers. Dynamometers will no longer be required, reducing the expense of tailpipe testing. Specific information on the testing equipment is not yet available. An authorized tester will be free to choose what testing they offer vehicle owners.

(a) and (b)

Comment W-7

I would like to comment on the proposed changes to emission testing. If the proposed changes go through requiring online reporting that would render most all school district test equipment obsolete. As you probably know school districts are in a severe budget reduction situation due to state funding cut backs. This would leave us two options purchase new equipment that costs thousands or hire a company to test our buses again all at additional expense. As a matter of economics we have been testing our own diesel vehicles since it became a requirement.

I would like to ask that you reconsider the online reporting requirement due to the increased expense involved.

Ecology response: The proposed rule allows Ecology discretion in implementing these conditions. Ecology is committed to drafting an implementation plan for public fleets. We will consider this comment at that time.

Appendix A: Copies of all written comments

From: Mike Kenney [<mailto:mkenney@esd101.net>]

Sent: Thursday, March 31, 2011 11:10 AM

To: Raymond, John (ECY)

Cc: mike.boyer@ecy.wa.gov

Subject: Proposed Rule Making

Good morning John and Mike. Allan Jones the State Director for Student Transportation with the Office of the Superintendent for Public Instruction ask me to respond to your PRM as I am the school bus specifications coordinator. As you recall we partnered with Ecology and the WSP in 2004 with an emissions testing program. Through a grant from Ecology we purchase nine opacity meters and trained the WSP inspectors to test every bus in the state. We now have those testers out on loan to our school districts in the test areas around the state. We would like to work with Ecology to ensure that our districts would be able to continue to use these monitoring devices. We also have worked with Ecology on retrofitting most district buses with particulate traps. In reading the proposed rule changes we see some issues with test equipment specifications and vehicle exemptions. We are sure we will be able to work with Ecology to make sure our school districts continue to meet the requirements of the new regulations and keep the cost to the districts as low as we can. We look forward to continuing this valuable partnership. Thanks.

Mike Kenney
Regional Transportation Coordinator
Educational Service District 101
(509) 789-3558 (phone)
4202 South Regal Street
Spokane, WA 99223-7738
(509) 323-2785 (fax)

From: Sells, Blaine [<mailto:Blaine.Sells@kent.k12.wa.us>]
Sent: Monday, March 28, 2011 3:25 PM
To: Raymond, John (ECY)
Subject: Emission Testing

John,

I would like to comment on the proposed changes to emission testing. If the proposed changes go through requiring online reporting that would render most all school district test equipment obsolete. As you probably know school districts are in a severe budget reduction situation due to state funding cut backs. This would leave us two options purchase new equipment that costs thousands or hire a company to test our buses again all at additional expense. As a matter of economics we have been testing our own diesel vehicles since it became a requirement.

I would like to ask that you reconsider the online reporting requirement due to the increased expense involved.

Thank You for your consideration

Blaine Sells
Shop Manager
Kent School District

From: 15thSTAutomotive@comcast.net [<mailto:15thSTAutomotive@comcast.net>]
Sent: Tuesday, March 22, 2011 8:32 PM
To: Raymond, John (ECY)
Subject: Comment Re: Air Quality Program Rule

John,

Thank you for your informational meeting tonight regarding the the new rule changes to the Air Quality Program. I would like to submit an official comment on the subject.

1) There should be a language regarding the requirements of the decentralized test facilities and the personnel performing those tests. I feel that the personnel should be current and in good standing Authorized Emission Specialists (AES) and they should have some history with the program. Allowing any business that merely has the capital to invest in the equipment requirements become a test facility will open the program to unscrupulous and possibly fraudulent practices. By allowing ONLY those that have a good history in the current program become test facilities you will know that the program is going to be held to high standard.

2) There should be language regarding the ability of the decentralized test facility to administer waivers to vehicles that meet the minimum requirements but do not satisfy the test standards. If the Dept Of Ecology is going to trust us to test these vehicles they should have faith in us that the waiver process will also be held to a standard.

Thank you for allowing the opportunity to submit these official comments.

Steve Swanlund
15th St Automotive
Puyallup, WA
253-840-2250
15thstautomotive@comcast.net

March 21, 2011

via: email with pdf file

John Raymond
Air Quality Program **RE: Centralized vs Decentralized Emission Testing**
P.O. Box 47600
Olympia, WA 98504-7600

Dear Mr. Raymond:

As you may remember, the Automotive United Trades Organization (AUTO) is a nonprofit trade association representing motor fuel marketers and automotive service retailers in Washington state.

AUTO and its members believe that a program administered by Ecology that creates competition between a number of small businesses would improve efficiencies and services for consumers compared to the current monopolistic system tied to one provider with limited facilities. A decentralized system would also provide consumers with a wide range of testing stations from which to choose at no additional cost to the state or the consumers. It would also help small businesses that reinvest their profits in cities and towns of this state to retain or add employees which would help local economies.

Unfortunately, I have a previous commitment and will not be able to attend the meeting tomorrow

evening. Please use this communication to register our support for the decentralization of emission testing.

Respectfully,
Tim Hamilton
Executive Director

From: Fred Wilson [<mailto:FredW@high-road.com>]
Sent: Sunday, March 20, 2011 11:03 PM
To: Raymond, John (ECY)
Subject: Comments on proposed rule changes

Mr. Raymond,

Please find below my comments on the proposed changes to the Washington emission check program.

(9) Honda Insight and Toyota Prius model vehicles.

Other Hybrids are not included? Honda, Toyota, Lexus and others.

Is this all Insight models or just the new one?

This section seems to arbitrarily exclude some vehicles of identical and/or similar design. Was an efficiency formula used to arrive at this limitation?

I was advised that current ecology policy states that Hybrids are all exempt. Is this incorrect?

New higher limits: 1995 and older CO 3.0% HC 400 ppm.

In my experience this HC limit will allow some older vehicles with geriatric engines and catalysts to skip the fail – diagnose – customer refuse repairs – retest – waiver process that is the most common track for these units. Is this the intent of this proposed rule? They usually need both engine and catalyst which far exceeds the units' value.

The proposed CO limits are not reasonable in my opinion. CO failures are more frequently fuel control system failures that are repairable a reasonable cost that makes economic sense to an average unit owner.

Further, many systems default to CO values near 3.0% when active fuel control is lost. This could result in Fail at test station; Pass at repair facility ping pong effect.

(c) For the vehicle to pass a retest, the monitor(s) that commanded the check engine light on during the initial test must be ready to report.

I agree that this requirement is needed as it closes a loophole in the current testing program. It will likely meet with some resistance from techs and/or shops as it requires drive cycle testing that is not always currently performed. My experience teaching program technicians suggests that many are poorly versed in this process. Further it requires time that can be difficult to sell to a customer: "I need to pay for you to drive my car" is the common comment of repair customers.

NEW SECTION

WAC 173-422A-340 Authorized testers. (1) Authorized testers must meet the following conditions:

(a) Use ecology approved testing equipment. The test must be done on-line unless ecology grants prior approval.

(b) Follow the testing procedure described in section 110 for gasoline vehicles and section 210 for diesel vehicles.

What equipment will be needed for an Authorized Tester? Will current commonly used test equipment suffice?

Will an authorized tester be required to perform both OBD and tailpipe testing? OBD only testing could entice more shops to participate in a testing program. Tailpipe testing is in decline and equipment for it is expensive; this would be a deterrent to entering into this program.

(3) The testing equipment must be able to perform the test online unless ecology grants prior approval. WAC 173-422A-340 Authorized testers. (1) Authorized testers must meet the following conditions:

(a) Use ecology approved testing equipment. The test must be done on-line unless ecology grants prior approval.

What equipment currently available meets this requirement?

(2) Authorized testers may set their own fees.

It is unlikely that many automotive repair shops would be willing to bear the expense of equipment purchase and personnel training when competing with a low fixed price competitor such as the state approved contractor. Since the program is set to end in a few years this would also limit investment in equipment.

Is the new program in demand by participants or in response to some other concerns?

Looking forward to your reply.

Fred Wilson, BSME

Emission Check Program Technician Instructor

Owner High Road Automotive

1531 NW Leary Way

Seattle WA 98107

206 789 7521

From: geoff-williams@comcast.net [mailto:geoff-williams@comcast.net]

Sent: Thursday, March 17, 2011 2:54 PM

To: Raymond, John (ECY)

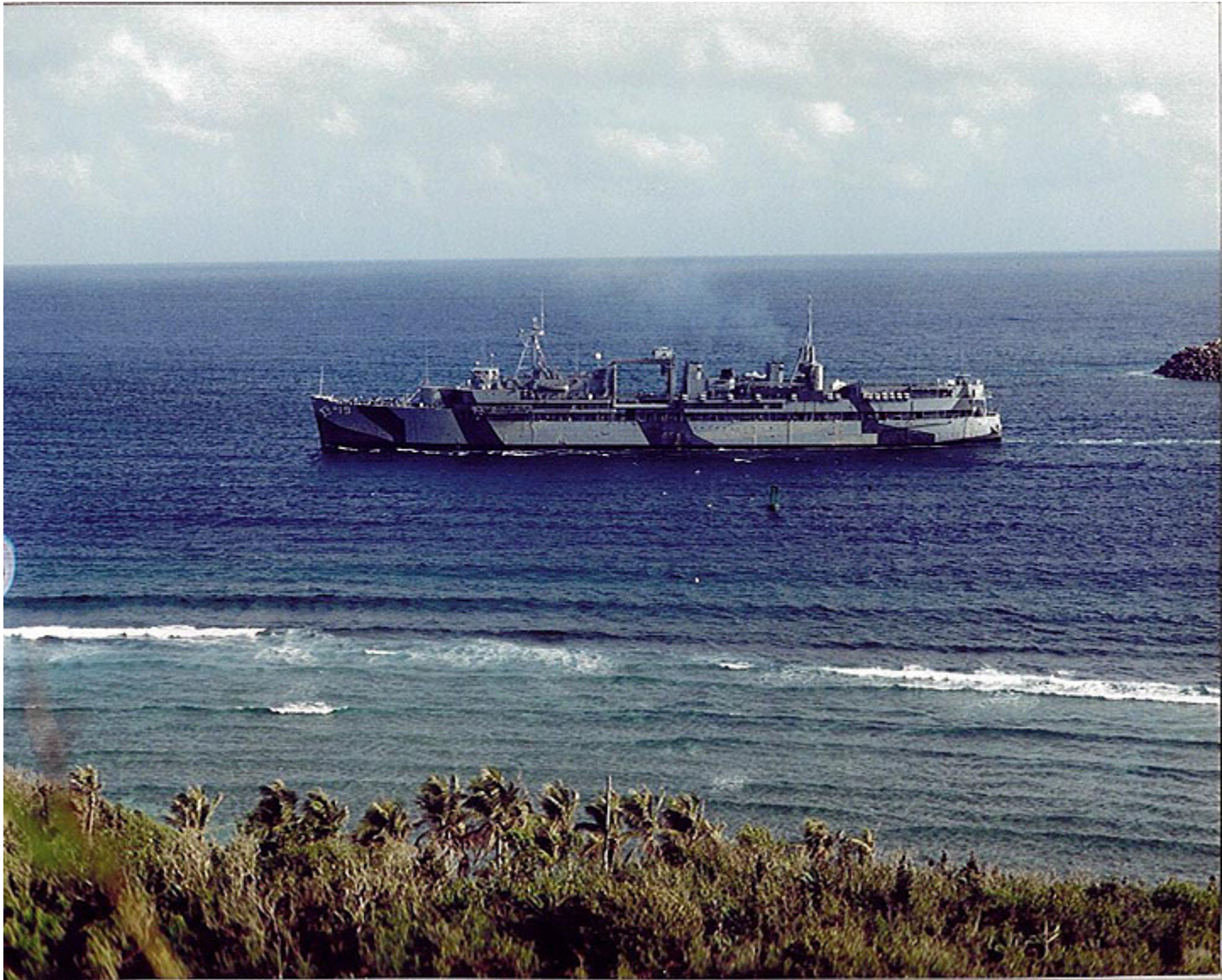
Subject: Decentralized Testing Network

Good afternoon John,

I am Geoff Williams with Automotive Central Service in Marysville. We currently are a registered emissions repair facility with the state. I have a couple questions about this plan:

1. Who is going to regulate when the vehicle needs to come into the shops to be tested? Currently it is the DOL when they send a renewal notice for the license plates. Is that still going to be the means of notification?
2. Is there going to be state monitoring at these facilities? I know there is a renewal of certification for each shop, but above that renewal certification is the state going to come in and see how many emissions tests are being conducted?
3. Are the repair shops now going to collect the \$20 initial testing fee the state mandates now and forward that to the state each time a test is conducted? Is that same shop then going to charge a repair fee atop that service fee for the customer to be able to license their vehicle in the event the test failed? The repair shops should report to the state the number of passes and fails so you can see which repair shops are just testing and taking the general public for a \$150 expense above the service fee.
4. There should be no waivers for emission testing. PERIOD. A \$150 fee for servicing the vehicle with a check engine light on is a license to steal for the repair shop. On some of the newer vehicles a check engine light can come of for brake failure. But because the check engine light is on, the vehicle fails emission. That is not the designed intention of the system.
5. Last statement. If a vehicle is being driven on any state, county, city, or rural road in WA that smokes from the tail pipe and is seen by local law enforcement, those vehicles should be stopped and given a citation for smog producing vehicle and ordered to test the vehicle, regardless of age of vehicle, location in the state, and what state the vehicle is registered in. The reason why I say this, because vehicles over 20 years old are becoming more common and once they get past the golden age emissions testing is not conducted and becomes neglected. Why test for a few vehicles, when there are more than a few on the road?

Geoff Williams
Automotive Central Service
360-548-3491 (o)
425-268-0160 (c)
US Navy Retired (20+ Years)



From: Paul Chamberlain [<mailto:PChamberlain@clarkpud.com>]

Sent: Tuesday, March 15, 2011 10:34 AM

To: Raymond, John (ECY)

Subject: Ecology proposed changes to motor vehicle emissions testing program

John,

For Clark Public Utilities as a public fleet, what does the statement below mean? Will this information be entered on a DOE website by the technicians or what, using the same type of format?

Having all testing done by authorized testers using the state contractor's computer system.

Let me know.

Thanks

Clark Public Utilities

Paul Chamberlain

Fleet & Warehouse Operation Manager

Office 360-992-8804

Cell 360-606-6374



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March 22, 2011

John Raymond
Air Quality Program
Department of Ecology
P.O. Box 47600
Olympia, Wa. 98504-7600

Dear Mr. Raymond:

The Washington Retail Association strongly supports the proposal to privatize the state's auto emissions inspection program.

The idea offers several advantages to businesses, state government and the citizens of our state. These include:

***More facilities** from which consumers could choose.

***Lower wait times** as a result of more locations and the convenience of being able to combine emissions inspections with other routine maintenance such as oil changes and brake inspections.

*The prospect of **lower inspection fees** due to competition among repair shops.

*A sorely-needed **new source of revenue for local shops** that then might be able to make hires and help our economy recover. Revenues from emissions inspections currently go to an out-of-state company.

***Financial relief for state government**, currently wrestling to address a revenue shortfall of more than \$5 billion.

In summary, privatizing our emissions testing requirement will help our economy, provide an incentive to reduce costs and offer the state some of the relief it needs to recover from a financial crisis. I appreciate your consideration.

Sincerely,

Jan Teague
President/CEO
Washington Retail Association

Appendix B: Transcripts from public hearings.

Federal Way – March 22, 2011

Melanie Forster: I'm Melanie Forster, Hearings Officer for this hearing. This evening we are conducting a hearing on the proposed amendment, the proposed rule for Chapter 173-422A WAC, Motor Vehicle Inspection. Let the record show it is 6:54 PM on March 22, 2011, and this hearing is being held at the Federal Way 320th Library at 848 South 320th Street in Federal Way, Washington.

Legal notices of this hearing were published in the Washington State Register on February 16, 2011 under register number 11-05-089. In addition, notices of this hearing were mailed to about 1,350 interested people. E-mail notices were sent to about 30 interested people. And a news release was issued on March 11, 2011.

I will be calling people up to provide oral testimony based on the order that I received your sign-in. Once everyone who has indicated that they would like to testify has had the opportunity to do so, I will open it up for others. Please speak clearly into this microphone. You may stand or sit up here, whatever you prefer.

We will begin with Merle Pfeifer, to be followed by Martin **Mi**.

Merle Pfeifer: Melanie, before I make a statement, can we restate what we said earlier or is this a way to make a _____?

Melanie Forster: Absolutely. You have the floor. You can say whatever you'd like to say for the public record.

Merle Pfeifer: Thank you, Melanie. My name is Merle Pfeifer. I am in favor of decentralizing the emission testing in the state of Washington. However, after reviewing some of the questions earlier from Raymond, I do see some flaws and I do see some things that need to be addressed, at least in the rules area.

One of those would be that I believe that decentralized station should be allowed to do waivers. It doesn't make sense for a customer to come into a business and fail their emissions, then have to go to a centralized station that may be 15 or 20 miles away to have the waiver written. It just doesn't make common sense. Actually, to do this, one of the reasons we're doing it is to provide customer service, and I think that would be detrimental to a customer.

Secondly, there needs to be some additional thought given to mobile stations, people that are in the mobile business, testing. They're out in the field. They may not have wi-fi connections where they're at. I don't know how much thought was given to mobile testing the fleets.

In addition, there's other small companies and companies that do their own testing on-site, and they need to make sure they don't have to become a certified emissions specialist like many of us are.

So I think there's some rules changes that need to be thought of, and I think that it would be a very good idea if you would bring in some people from the actual business community that are either emission certified or emission specialist or running a business that does do testing. Thank you for the time.

Melanie Forster: Thank you. May I have Martin Mi?

Martin Mi: I'll pass.

Melanie Forster: All right. The next we have **Mark Hanson**.

[Inaudible comment]

Melanie Forster: How about **Brian Lynch**? Scott Morris?

Scott Morris: Thank you, Melanie. My name is Scott Morris and I work for Heartland Automotive. Currently we're the largest DBA of the franchise, Jiffy Lube. Currently we have 85 locations here in this area that would provide a tremendous amount of convenience to the citizens here. We've been in the inspection business for a while. We were covered in seven states. We cover vast programs to emission-only testing to safety-only testing to safety and emission testing.

There's a lot of good and positive feedback that we can get from the decentralized location, and I took some notes here and I'd like to share it real quick. As the young man stated earlier, customer convenience, as business owners and shop operators we're constantly focusing on the guest's perception and how they view us, because there's a lot of people out there that perform quality work, and if we do not satisfy them within our doors they're not coming back. So the guest convenience is the most important thing.

With our 85 locations, we would obviously decrease the drive time, obviously decrease wait time. We would have more facility coverage for testing and has added more inspection lanes.

As far as the economic value in it, it's very simple. It would produce local capital circulation. It increases revenue for small businesses, higher traffic counts for private businesses, new and lucrative revenue streams created for private businesses, the ability to capture more peripheral automotive repair for a lot of repair facilities in here. You could get the repair. You have the licensed technician. You're gonna just hand it off to a licensed technician that is now licensed in the automotive repair.

For us, we would not get into the repair so much, as far as the hard part repair, replacing O2 sensors, **cats**, et cetera. So if we're doing the test, we're gonna hand it off to

some of you in the audience as far as the repair stations, and we're a partner in this business.

The inspection stations will be diverse and I just touched on that. However, there's always integrity in every program. If there's an OBD testing, then you're gonna have what they call clean scanning. If you're doing tailpipe testing, it's called clean piping. There's manipulations to the test no matter where you go. With more of a decentralized program and with everybody in here, 'cause it seems like the majority is after the decentralized program, then we become the pillars of the inspection program. We become the integrity and we become the character.

When you still have that centralized vendor out there, that's where you're gonna cause problems. You have – I'm just throwing out numbers here – you have one person in charge of one and one person in charge of the other. "Well why is that?" "Well, I can get it done over here." "But you can get it done here faster." "Well I don't want to wait." It creates chaos in the community, and at some point in time we're gonna stand on that side of the fence and we're gonna have to endure that chaos, not only as a person needing our vehicle inspected, but a person trying to create the business.

With the current stations going into a decentralized program, you can use the current infrastructure that the state has in place now. So there's not gonna be any increased revenue onto the state. Maybe in a compliance issue, now you have more stations. Instead of having six local stations, now you're gonna have 300. Now you have a little bit more of a compliance issue, so there's a little bit of added cost, but the state can raise that price of that per certificate or per sticker to justify that value or to that cost to them in the monitoring of the program.

Again, we operate in seven different states and a decentralized program is not only good for the community, but as well as local business owners. Thank you.

Melanie Forster: I'm sorry. I forgot to ask. Would you please state your name and address for the record.

Scott Morris: Address?

Melanie Forster: Or whatever business you represent.

Scott Morris: Sure. Once again, my name is Scott Morris. I work for Heartland Automotive and our corporate office is located in Dallas, Texas.

Melanie Forster: Thank you. I also have Bob Cahill.

[Inaudible comment]

Melanie Forster: All right. Is there anyone else who wishes to provide testimony? All the testimony received at this hearing, along with all written comments received

by March 31, 2011 will be part of the official hearing for this proposal. Ecology will send a notice about the concise explanatory statement publication to everyone who provided written comments or oral testimony on this rule proposal, everyone who signed in for today's hearing, who provided an e-mail address, and other interested parties who are already on the agency's mailing list for this rule.

The concise explanatory statement will, among other things, contain the agency's response to questions and issues of concern that were raised during the public comment period. If you would like to receive a copy, but did not fill out a card or sign in, please see me after the meeting.

If you would like to send Ecology written comments, please remember that they are due postmarked by March 31, 2011. Send them to John Raymond at PO Box 47600, Olympia, Washington, 98504-7600 or you can e-mail John.Raymond@ecy.wa.gov. That information is up on the screen right now.

The next step is rule adoption. Ecology Director, Ted Sturdevant, will look at the public comments, the concise explanatory statement and other rule documentation, and also staff recommendation, and will make a decision about adopting the proposal. Adoption is currently scheduled for June 23, 2011. If the proposed rules should be adopted that day and filed with the Code Reviser it will go into effect 31 days later.

If we can be of further help to you, please do not hesitate to ask, or you can contact John Raymond if you have any other questions. On behalf of the Department of Ecology, thank you very much for coming. I appreciate your cooperation and courtesy. Let the record show that this hearing is adjourned at 7:06 PM.

[End of Audio]