

MAINE STATE LEGISLATURE

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Senate

Richard J. Carey, Kennebec, Chair
Georgette B. Berube, Androscoggin
Charles E. Summers, Cumberland

Deb Friedman, Legislative Analyst
John Kelley, Legislative Analyst



MAINE STATE LEGISLATURE
Augusta, Maine 04330

House

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Beverly C. Daggett, Augusta
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Herbert C. Adams, Portland
Carol A. Kontos, Windham
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JOINT SELECT COMMITTEE TO REVIEW THE
IMPLEMENTATION OF THE AUTO EMISSIONS INSPECTION PROGRAM

August 29, 1994

Hon. Dennis L. Dutremble, President of the Senate
Hon. Dan A. Gwadosky, Speaker of the House of Representatives
Members of the Legislative Council
116th Maine Legislature

Dear President Dutremble, Speaker Gwadosky and Council Members,

You have asked the Joint Select Committee to Study and Review Implementation of the Auto Emissions Testing Program to report its recommendations to you by August 29, 1994. Recognizing the importance of the issue to the Maine public, we have worked diligently toward the goal of reporting by the 29th.

Today the committee voted to recommend suspension of the testing program. We believe suspension is needed to allow us time to improve the quality, reliability and public acceptance of the testing program. We are still working to determine the duration of the suspension and the conditions under which it will occur. As part of that process, we expect to work with Systems Control, the Department of Environmental Protection and other interested parties to develop a suspension plan that will best serve the interests of the State. We will keep you informed of our progress on this issue.


Due to the complexity of the issues involved, we need additional time to develop final recommendations on the other issues presented to us for study, and to formalize the details of the suspension.

We are submitting this status report today to describe to you the activities we have undertaken to date, where we stand in terms of making recommendations, and what our plans include for future study. We are also sending this report to all members of the 116th Legislature so that they may be informed of our activities.

We look forward to continuing our work and will convey our final recommendations to you as soon as we are able.

Sincerely,


Senator Richard J. Carey
Senate Chair


Rep. Paul F. Jacques
House Chair

Richard J. Carey, Kennebec, Chair
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JOINT SELECT COMMITTEE TO REVIEW THE
 IMPLEMENTATION OF THE AUTO EMISSIONS INSPECTION PROGRAM

STATUS REPORT
 August 29, 1994

This report describes the activities of the Joint Select Committee to Study and Review Implementation of the Auto Emissions Testing Program.

The charge to the Committee

On July 19, Senate President Dennis Dutremble and House Speaker Dan Gwadosky convened the first meeting of the Joint Select Committee to Study and Review the Implementation of the Auto Emissions Testing Program. The President and Speaker charged the committee to hold public hearings in the 7 counties subject to the test requirement and to investigate the following issues:

- The fairness of including only the 7 southern Maine counties in the testing requirement;
- The rationale for exempting diesel-powered vehicles;
- The use of a single centralized testing facility rather than allowing local garages to perform the test;
- The development of a policy for emission credit trading involving credits created by the auto testing program;
- Reliability of the test;
- Implementation of the low-mileage waiver;
- The \$450 repair waiver requirement; and
- Other issues relating to the fairness of the testing program

In the 6 weeks that have elapsed since its convening, the committee has held 30 hours of full committee meetings, 20

hours of subcommittee meetings and another 30 hours of public hearings in the 7 counties subject to testing. Attached as Appendix A are copies of the agenda for each meeting and a copy of the public hearing schedule.

Gathering background information

The committee began its study by meeting on July 19, 21 and 26 to receive background briefings and to question representatives from the Department of Environmental Protection, the U.S. Environmental Protection Agency, the Bureau of Motor Vehicles, Systems Control, the Bureau of Purchases, and the Office of the Attorney General about the following matters:

- Requirements of the federal Clean Air Act;
- Plans to trade credits created by the testing program;
- The history of rulemaking and implementation of the testing program by the Board of Environmental Protection and the DEP;
- Formation of the contract with Systems Control;
- The status of testing programs in other New England states;
- The operation of the registration suspension process through the Bureau of Motor Vehicles; and
- Data from the first few weeks of testing.

Following briefings, committee members formulated a list of issues they wanted to explore and formed three subcommittees to look into those issues. Subcommittees met on August 2nd and 3rd, August 16th and August 25th. A copy of the subcommittee membership, the issues assigned to each subcommittee, and status reports are attached as Appendix B.

Public Hearings

During the weeks of August 8th and August 15th, the committee asked members of the public to attend hearings held in their local areas to collect information on experiences with the testing program and opinions regarding the policy involved. The committee estimates that over 1300 people attended those hearings, and over 300 of them testified. Many more spoke to committee members at the end of the hearings, and others sent letters and completed questionnaires to describe their experiences and share their thoughts with us.

Among the most common criticisms we heard of the experiences with the program are the following:

- Rude treatment by CarTest employees (including laughing at customers, ridiculing cars)
- Employees who are unable to explain test results
- Inconsistency and unreliability of the test results
- Damage to vehicles or a perception of improper or incompetent handling of vehicles (including revving of engines, failure to secure the hood following the test, improper connection of hoses following the test)
- Cars that give worse results following repair than they gave before repair
- False failures due to improper pressure testing of cars and trucks with "roll over" valves
- Uncertainty within segments of the auto repair community as to how to efficiently and effectively perform repairs

In addition, members of the public expressed the following policy concerns:

- Unfairness of requiring only part of the state to take the test;
- Unfairness of trading credits earned through the efforts of the general public to private industry
- The wisdom and fairness of excluding diesels
- The wisdom of requiring a centralized contractor to perform the test rather than allowing local garages to test
- The need for legislative oversight of the development and implementation of the program by the DEP;
- Questioning whether the program is needed, and whether other sources of ozone and emissions should bear the burden of clean-up.

Following public hearings, the full committee met to list possible options to explore, and sent those options to subcommittees for further study.

Progress to Date

Although the committee does not have final recommendations to report, it can report that improvements to the testing program have already been made as a result of legislative involvement.

Before the testing program began, legislators secured a commitment from the Bureau of Motor Vehicles to enable the public to register cars without having completed the test, provided they do so within 90 days after the expiration of their registration. In addition, for vehicles that fail the test between July 1 and December 31, 1994, repairs need not be obtained before March 31, 1995.

After hearing public experience with the test program, committee members pressed Systems Control to improve its customer relations, including training its staff to deal with the public and providing additional information on the testing process. CarTest will distribute a pamphlet explaining the testing process, will distribute more focussed and detailed information for people who vehicles fail one or more parts of the test. Finally, vehicles with roll over valves will not be tested for the pressure test until a reliable, proper test method can be formulated.

Remaining Issues

Despite improvements in implementation of the program, committee members remain concerned about the quality, reliability and public acceptance of the program. As a result of this concern, members voted unanimously today (with one member absent) to recommend that the program be suspended. The committee believes that more work must be done before the suspension becomes effective.

The committee will work with Systems Control, the Department of Environmental Protection, the U.S. Environmental Protection Agency and other interested parties to develop a suspension plan that will best serve the interests of the public. That plan will include a statement of the duration of the suspension and the activities and improvements to occur during the suspension. Among the improvements discussed by the committee are increased training of CarTest employees, increased training of auto repair technicians and improvements in public perception of the reliability and rationale for the test.

The committee expects to continue work on developing a suspension plan and also to continue study of the following issues:

- **Affordability**

Can the repair waiver for certain areas of the state be granted at a lower level of expenditure? Can funds be found to provide assistance to those who cannot afford the repairs required?

- Diesel-powered vehicles

Is the federal government doing all it can to regulate and test diesels? Should the state do more?

- Alternatives

Are there alternatives ways to reduce ozone-causing VOCs? Are they more palatable than the auto emissions program?

- Opt out

Can Maine lessen its requirements by opting out of the Ozone transport region?

- Credit trading policy

The committee continues to monitor development of an emissions credit trading policy. We have asked the governor to form an advisory group representing all interested parties, and to inform the committee of actions regarding the policy.

- Public information

The committee is committed to providing better information to the public to enable them to understand the rationale for the program, including sharing with the public the information the committee has received this summer. The format and method of delivering that information has not been determined.

Summary

To summarize, we feel that the committee has made excellent progress in improving the implementation of the inspection program and in coming to a conclusion regarding the short-term status of the program. We need more time, however, to make a long-term decision about policy and implementation issues and we look forward to continuing this work with an eye toward resolution as soon as we can.

APPENDIX A
AGENDA

Joint Select Committee to Study and Review the
Implementation of the Auto Emissions Inspection Program

Tuesday, July 19, 1994
1:00 p.m., Room 228 State House

1:00 p.m. Opening Remarks and Charge to the Committee

- *President Dennis L. Dutremble*
- *Speaker Dan A. Gwadosky*

1:15 p.m. Background Briefing, Clean Air Act

- *Deborah Friedman,*
Office of Policy & Legal Analysis

1:45 p.m. Status, Experience with Motor Vehicle Emissions Testing Program

- *Debrah Richard*
Commissioner, Department of Environmental
Protection
- *Ron Severance*
Department of Environmental Protection
- *Robert Judge,* EPA Region I, Boston
- *Scott Bauman,* Systems Control, Inc.
- *Bill Dowling,* Bureau of Motor Vehicles,
Department of Secretary of State

2:45 p.m. Briefing and Discussion of Offset/Credit Issue

- Briefing by *Deborah Friedman*
- Comments from *Debrah Richard,* DEP
- Comments from *John Devine,* Office of the
Governor
- Committee Discussion

3:30 p.m. Public Comment

4:00 p.m. Development of Committee Work Plan

- Define issues needing further study and
establish goals/outcomes for committee work
- Form Subcommittees and Assign Tasks
- Establish tentative schedule for future
meetings, public hearings, reporting
deadlines
- Request Additional Written Information,
Background Briefings for Next Meetings

AGENDA
Joint Select Committee to Study and Review the
Implementation of the Auto Emissions Inspection Program

Thursday, July 21, 1994
1:30 p.m., Room 334 State House

Briefing and Discussion of Offset/Credit Issue

- Briefing by *Deborah Friedman*
- Comments from *Debrah Richard*, DEP
- Comments from *John Devine*, Office of the Governor
- Comments from *Conrad Schneider*, Natural Resources Council of Maine
- Questions for *Michael Aube*, Commissioner, Department of Economic And Community Development
- Committee Discussion

Development of Committee Work Plan

- Define issues needing further study and establish goals/outcomes for committee work
- Form Subcommittees and Assign Tasks
- Establish tentative schedule for future meetings, public hearings, reporting deadlines
- Request Additional Written Information, Background Briefings for Next Meetings

AGENDA
Joint Select Committee to Study and Review the
Implementation of the Auto Emissions Inspection Program

Tuesday, July 26, 1994
9:00 a.m., Room 334 State House

9:00 Development of Committee Work Plan

- Define issues needing further study and establish goals/outcomes for committee work
- Form Subcommittees and Assign Tasks
- Establish tentative schedule for future meetings, public hearings, reporting deadlines
- Request Additional Written Information, Background Briefings for Next Meetings

10:45 Discussion of Formation of the RFP and Contract

- *Ron Severance and Jeff Crawford, DEP*
(Formulation of Request for Proposals)
- *Dick Thompson, Bureau of Purchases*
(Contract Review Process)
- *Sarah Roberts-Walton, Assistant Attorney General*
(Contract Award Appeal)

Possible Issues to Address with Bob Miller
(Based on Comments from Public Hearing)

- **Level of employee training**
 - Do we need more? Public relations?
 - Is CarTest willing to do more?
- **Qualifications & pay level for employees**
 - Do employees need higher level of knowledge than CarTest has sought?
 - Should pay level be higher? What incentives are there for employees to continue working there and improve their performance?
- **Payment for damage to vehicles**
 - How promptly have you paid people?
 - Who resolves the damage claims and how is it done?
- **Information to repair people**
 - We've heard complaints that CarTest doesn't explain how purge or pressure tests are done.
 - Is someone available to answer questions?
 - Is it true that garages can't buy the same equipment that CarTest uses?
- **Diagnostic information from test**
 - Why can't employees provide diagnostic information?
 - What would it cost to provide more information?
- **Public information**
 - What are you doing to improve public perception of the testing program?
 - How specifically have you responded to public concern about "revving engines" and inconsistency of test results?
- **Test station comfort**
 - Have you improved comfort? Complaints include "noisy, no seats, no rest rooms".
- **Relationship to Snap-On Tools**
 - Please explain. Why not a conflict of interest?
- **Changes to Program**
 - What damages might Systems Control allege if state suspends or cancels program? Or limits to certain areas?
- **Complaint process**
 - How often does DEP get involved with handling complaints?
- **Inconsistent test results**
 - Why? What can be done?

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IMPLEMENTATION OF THE AUTO EMISSIONS INSPECTION PROGRAM**

AGENDA

**Joint Select Committee to Study and Review the
Implementation of the Auto Emissions Inspection Program**

Tuesday, August 23, 1994
9:00 a.m., Room 334 State House

Brief Presentations

- Deborah Garrett, Deputy Commissioner, Department of Environmental Protection
- Jane Lincoln, Deputy Commissioner, Maine Department of Transportation
- Chris Hall, Maine Chamber of Commerce and Industry
- Sue Till, Maine Alliance
- Floyd Rutherford, Paper Industry Information Office
- Peter Merrill, Maine Oil Dealers Association
- Patty Aho, Maine Petroleum Association
- Tom Brown, Maine Auto Dealers Association
- Terry McKenney, Automotive Service Association of Maine
- Conrad Schneider, Natural Resources Council of Maine
- Bob Judge, U.S. Environmental Protection Agency

Presentation of Information Collected from the Public

- Public Hearing Results
Recommendations, Test Experiences, Issues
- Questionnaire Results

Committee Discussion

AUGUST

Public Hearings of The Maine Legislature's Joint Select Committee to Review the
 Automobile Emissions Testing Program
 (All Hearings Are Held from 2-4 P.M. and 6-8 P.M. in each Location)

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
7	8 YORK COUNTY Kennebunk High School (gymnasium) 89 Fletcher St. Kennebunk	9 KENNEBEC COUNTY Augusta Civic Center Cushnoc Room Augusta	10 ANDROSCOGGIN COUNTY Multi-Purpose Center (gymnasium) 145 Birch St. Lewiston	11 CUMBERLAND COUNTY Scarborough Town Office 259 U.S. Route 1 Scarborough	12	13
14	15 SAGADAHOC COUNTY Mt. Ararat High School, (Commons) Route 201 Topsham	16	17 LINCOLN COUNTY Wiscasset High School (gymnasium) Gardiner Rd. Wiscasset	18 KNOX COUNTY Thomaston Grammar School (gymnasium) Watts Lane, (off of Main St., behind the business block) Thomaston	19	20

For more information call 287-1670

Senate

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John Kelley, Legislative Analyst

APPENDIX B



MAINE STATE LEGISLATURE
Augusta, Maine 04330

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JOINT SELECT COMMITTEE TO REVIEW THE
IMPLEMENTATION OF THE AUTO EMISSIONS INSPECTION PROGRAM

Subcommittees and Meeting Schedules

A. Operations Subcommittee

Members: Rep. Beverly C. Daggett
Sen. Richard J. Carey
Rep. Paul F. Jacques
Sen. Charles E. Summers
Rep. Lawrence F. Nash
Rep. Richard A. Gould
Rep. Malachi Anderson
Rep. Marge L. Kilkelly

Staff: John Kelley, OPLA (287-1670)

Subject Matter

Contractor performance issues (complaint process (1-800 #; information to legislators; qualifications and training of employees)

Registration & suspension process (is the letter to the public understandable? do town clerks understand the process and the requirements for registration?)

Waivers (how is eligibility for the 5,000 mile waiver determined? waiver documentation)

Transferability of compliance certificate (used car transfers)

B. Auto technicians/ Repairs Subcommittee

Members: Rep. Marge L. Kilkelly
Sen. Richard J. Carey
Rep. Paul F. Jacques
Rep. John F. Marsh
Rep. Malachi Anderson

Staff: John Kelley, OPLA (287-1670)

Subject Matter

\$450 repair limit

Can local garages do test?

Training and certification of auto technicians

C. Air Quality/Program Coverage/Emissions Credit Subcommittee

Members: Rep. John F. Marsh
Sen. Richard J. Carey
Rep. Paul F. Jacques
Sen. Charles E. Summers
Rep. Rosalie H. Aikman
Rep. Herbert C. Adams
Rep. Carol A. Kontos

Staff: Deborah Friedman, OPLA (287-1670)

Subject Matter

Should the auto emissions inspection program be extended statewide? limited to the metropolitan areas?

Should trucks and buses be included in the inspection program? How are trucks and buses regulated, what additional regulations should be enacted, and what additional regulations are planned by EPA or DEP?

What vehicles should be exempt?

What is the quality of Maine's air, statewide? (monitoring information from nonattainment and attainment areas of the state)

Are there other options for meeting federal standards?

What should be done about potential emission credits created by auto emissions testing? Are there really "extra" reductions or are the reductions needed to meet air quality standards? Who should get credits? What process should be used to determine who gets credits?

OPERATIONS SUBCOMMITTEE SUMMARY

Purpose:

The subcommittee's charge is to review and make recommendations concerning the performance of CarTest and the implementation of the Inspection and Maintenance Program.

Work to Date:

Over the course of two meetings (8/2/94 and 8/25/94), the subcommittee has:

- 1) Interviewed management and line workers from CarTest about employee qualifications and training, customer service issues, and methods and results of testing cars.
- 2) Reviewed a set of issues identified by subcommittee members as central to program operations
- 3) Reviewed and ranked suggested changes in CarTest's operations and the I&M Program's implementation.

Results to date:

- 1) Suggested changes in CarTest's operations and the I&M Program's implementation.

A. Very high priority:

1. Work with Bureau of Motor Vehicles to make its letter to vehicle owners more informative and more friendly. This letter is the public's first direct contact with the I&M Program. Revise the letter before September mailing.

B. High priority:

1. Calculate the initial 5,000-mile exemption of a vehicle based upon mileage posted on the vehicle's annual inspection sticker instead of calculating from the vehicle's title. (Titles are not available for many older vehicles.)

2. Require owners of vehicles that meet the 5,000-mile exemption limit to nonetheless have their vehicles tested. The vehicles would still be exempted from repair costs. However, the subcommittee found that requiring a test of these vehicles alert vehicle owners as to whether they're driving polluting vehicles. In addition, it would provide state officials more complete data on which cars in Maine contribute to pollution.
3. Require CarTest to hire a greater percentage of full-time employees as lane inspectors and pay those inspectors a higher wage. The subcommittee found that full-time employees would offer state residents more consistent service. It also found that a high wage rate would attract better qualified and more experienced employees.
4. Require CarTest to meet clear and concise performance standards.
5. Require periodic independent evaluation of CarTest equipment to build public confidence in the reliability of emissions test.
6. Require an independent review of CarTest's overall operations (employee competence, customer interaction, etc.) to build public confidence in the I&M Program.
7. Require additional phone lines on CarTest's 800# customer service line, or require better response on existing lines.
8. Review the number of free tests allowed to ensure that retesting does not become a barrier to motorists repairing their emission systems.
9. Solve the conflict about noise between the Rockland CarTest station and an abutting church. The subcommittee suggests an independent third party mediate the conflict.
10. Obtain independent review of the state's contract with CarTest to answer questions about the consequences of repealing or suspending the program and about various aspects of CarTest's performance.
11. Provide vehicle owners with information on "consumer protection" procedures, including the process in which DEP will supervise an additional free test to resolve a dispute over test results.

C. *Measures the subcommittee has encouraged CarTest to undertake*

1. Examine operating hours and, where necessary, make them more convenient.
2. Continue its work with the DEP to post more thorough information on the I&M program in the waiting area. Such information would include the March 31, 1995 deadline for making repairs.
3. Replace benches in station waiting areas with chairs.

2. Recommended changes still being discussed by the subcommittee:

- A. Require CarTest to have a certified mechanic on-site at each facility.
- B. Make the test certificate valid for two years for all vehicles, regardless of whether vehicle is sold during two-year period.

3. Matters requiring further review and research:

1. A method of calculating the 5,000-mile exemption by using mileage posted on a vehicle's safety inspection sticker.
2. Federal law concerning replacement of vehicle engines. Federal law regards the replacement of an engine with an engine from a different model year as "tampering" with a vehicle's emission system. These vehicles are ineligible to pass the emissions test.

AUTO TECHNICIANS SUBCOMMITTEE

Purpose:

The subcommittee's charge is to examine how auto technicians, who perform repairs on emissions systems, respond to and interact with the Inspection and Maintenance Program. In addition, the subcommittee is examining certain technical/legal issues related to car testing.

Work to date:

Over the course of three meetings (8/2/94, 8/16/94 and 8/25/94), the subcommittee has:

1. Interviewed people connected with Central Maine Technical College about the college's auto technician certification program.
2. Reviewed a set of issues identified by subcommittee members as central to its charge.

Consideration of central issues:

A. The subcommittee continues to review the following issues:

1. The DEP technician "hot line" to answer technicians questions about specific vehicle emission systems.
2. Should an emission test be required when a used vehicle is bought?
3. The DEP's "auto technician report card," which would provide consumers information on specific technicians success rates with emission repairs.
4. Technicians response to the \$450 waiver: How will they react and what actions will they take as repairs approach \$450?
5. Should auto technicians be certified for emission repairs before being allowed to undertake I&M repairs?
6. Substantial differences between Maine's safety inspection laws and Maine's/federal government's auto emission laws. For example, safety inspection laws permit removal of a car's catalytic converter if the car is a 1982 or earlier model year. Maine and federal law prohibit removal of catalytic converters.

Review of suggested changes in the I&M Program

At the 8/24/94 meeting of the full joint select committee, members compiled a list of potential recommendations for changing the program and CarTest's operations. Only one of these suggestions fell under the purview of the auto technician subcommittee:

- * Making the repair limit in areas outside the Portland and Kittery metropolitan areas \$75 for model years 1968-1980 and \$200 for model years 1983 and later. The limits are currently \$125 for model years 1968-1980 and \$450 for model years 1983 and later.

The subcommittee will review this recommendation at a later meeting.

PROGRAM COVERAGE/EMISSIONS CREDITS SUBCOMMITTEE

Purpose:

The subcommittee's charge is to evaluate the geographic coverage of the emissions testing program and to evaluate the inclusion and exclusion of types of vehicles such as diesel-powered vehicles. The subcommittee is also looking at ways to make the repair requirement of the testing program more easily affordable. Finally, the subcommittee is charged with assuring legislative involvement in development of a policy regarding the trading of credits created by the auto emissions testing program.

Work to date:

Over the course of two meetings (August 3 and August 25), the subcommittee has:

1. Heard presentations by DEP staff about how ozone is formed, how DEP monitors ozone levels, and how the weather and wind patterns affect ozone formation and transport;
2. Received a briefing on various types of emissions credit trading under the Clean Air Act and the federal law requirements for those trading programs; and
3. Discussed issues requiring further study by the subcommittee.

Issues for further consideration:

A. The subcommittee continues to review the following issues:

1. Assuring that the public receives information about the rationale for the program and is given the benefit of receiving the information the committee has received this summer;
2. Whether the state should test or otherwise regulate diesel vehicles;
3. How to improve the affordability of the testing and repair program;
4. What are the alternative measures for reducing ozone-causing VOC's and what is their cost;
5. Whether the state can or should opt out of any part of the Clean Air Act requirements