



Criminal Enforcement Alert

Volume 1, Issue 2

Office of Criminal Enforcement, Forensics and Training

October 2011

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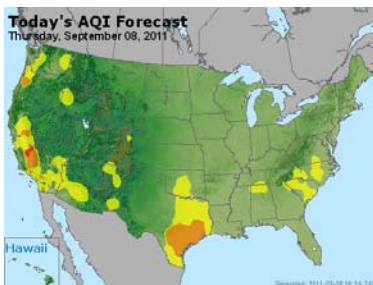


Smog in a valley and a vehicle exhaust pipe (inset).

Why are fraudulent vehicle emissions tests a problem?

Answer: Emissions from motor vehicle exhaust is one of the major sources of nitrogen oxides (NOx) and volatile organic compounds (VOCs) in the air. Ground-level or "bad" ozone is created by chemical reactions between NOx and VOCs in the presence of sunlight.

Breathing ozone can trigger a variety of health problems including chest pain, coughing, throat irritation, and congestion. Repeated exposure may permanently scar lung tissue.



Daily air quality forecast map, available on airnow.gov.

New Vehicle Testing Technology Makes Inspection Fraud Easier to Detect, Spurs Increased EPA Criminal Enforcement

Fraudulent vehicle emissions test schemes have been around for many years but have been difficult to detect and enforce against because inspectors had to be "caught in the act." The only way to catch inspectors who issued fraudulent certificates to vehicle owners, indicating that their vehicles had passed state inspection when they had not, was to use undercover agents to take vehicles to be tested that had been set to fail the inspection, or to use remote surveillance of inspection stations.

In recent years, however, the majority of vehicle inspection and maintenance programs across the country have begun using onboard diagnostic-based testing in place of traditional tailpipe tests on model year 1996 and newer vehicles. While traditional tailpipe tests are relatively easy to trick by using a clean vehicle in place of a dirty one (a practice known as "clean piping"), the new testing technique is capable of detecting when the vehicle information entered does not match the test results. Armed with this powerful new enforcement tool, EPA criminal investigators, state attorneys general offices, and public safety offices have taken a number of enforcement actions against vehicle emissions inspectors who violate the Clean Air Act by conducting fraudulent inspections and issue fraudulent certificates.



Idling cars on a highway.

A Case Study: Nevada

EPA began its stepped-up enforcement efforts against fraudulent vehicle inspections in 2009. Investigating alongside the Nevada Highway Patrol, EPA's Criminal Investigation Division focused on ten Nevada emissions inspectors who among them issued more than 200 fraudulent smog certificates between November 2007 and early 2009.

In what became known as the Fraudulent Emissions Certificate Operation, all ten inspectors have all been charged and sentenced, or are currently awaiting sentencing. They are Wajdi Waked, Alexander Worster, Joseph DeMatteo, David Nelson, Adolfo Contreras, Eduardo Franco, William McCown, Louis Demeo, Pete Escudero, and Gary Smith. Nelson received a sentence of three years' probation and eight months home confinement for his involvement. Smith pled guilty to making a material false statement in connection with the scam and is awaiting sentencing. The other defendants are also awaiting sentencing.

Did you know?

Ozone pollution is a concern during the summer months because strong sunlight and hot weather result in harmful ozone concentrations in the air we breathe. Many urban and suburban areas throughout the United States have high levels of "bad" ozone. But many rural areas of the country are also subject to high ozone levels as winds carry emissions hundreds of miles away from their original sources.

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Dealerships, Salesmen, and Technicians Involved in Scam

In North Carolina, Chuck Yee Cheung, a car salesman for Hendrick BMW in Charlotte, has been charged in federal district court with violating the Clean Air Act.

According to investigators, at least three former service technicians of the dealership, two of whom had state inspection licenses, were conducting clean-scans on vehicles using an illegal simulator purchased on the internet. The technicians, Craig Dickinson, Jin Sung Chang, Alexander Christian Edwards confessed to the scheme and DMV investigators seized the simulator.

In Missouri, Hershel Clark, an emission inspector for Clark Tire Wholesale, has been sentenced in federal district court to three years probation, of which one year is to be served as home confinement, and is required to perform 100 hours of community service. The Missouri Department of Natural Resources and the Missouri State Highway Patrol identified two employees of Clark Tire performing fraudulent emissions testing on automobiles. The fraud had been detected using computer data base information maintained by the highway patrol.

In Texas, the Texas Department of Public Safety has identified several local car dealerships knowingly participating in the generation of the fraudulent emissions tests at state vehicle inspection stations in Arlington, Texas. Nine men who own and operate Mike's Auto Care in Arlington, a state vehicle inspection station, are soon to be indicted for violating the Clean Air Act and conspiracy.

Fraudulent Emissions Testing May Be Widespread

Nevada is not the only state where fraudulent vehicle emissions testing is taking place. Other states where EPA investigations have led to prosecutions include Georgia, North Carolina, Missouri, and Texas.

In Georgia, Michael Kelly, of Atlanta, was sentenced on June 27 in a federal district court to serve two years in federal prison for violating the Clean Air Act by fraudulently issuing emissions certificates to cars that would have failed the emissions inspection required by law. Two other collaborators in the crime, Jackie Baker and James Hinton, await sentencing from the same court.

All three were licensed emissions inspectors working at a "Stop-N-Shop" in College Park, Georgia, through May 2009 when they lost their licenses. During the five-month period from January to May 2009, they issued more than 1,400 fraudulent emissions certificates to car owners, falsely stating that the owners' cars had passed the required emissions test. Kelly issued 476 fraudulent certificates himself.

How it Worked

Their procedure was to connect cars they knew would pass the test to emissions equipment instead of connecting the equipment to the owners' real cars. During the tests, the computer system automatically transmitted emissions testing data to a statewide database accessible by the Georgia Environmental Protection Division. False information was entered into the system, such as the make, model, and vehicle identification number, to make it appear those owners' real cars, many of which had already failed an emissions test or showed equipment malfunctions, were being tested. Owners were charged \$100 to \$125 for a fraudulent emissions test, far more than the usual \$20 charged for a legitimate inspection. Georgia law prohibits inspection stations from charging more than \$25 for an emissions test.



Vehicle emissions testing facility.

"Fraudulent emissions tests result in increased pollution from cars and light trucks – the major cause of smog in the metro Atlanta area. Increased smog is directly linked to increases in asthma and other respiratory illnesses, particularly in sensitive populations. By taking action against the criminals who bypass the federal emission standards of the Clean Air Act, EPA is taking the necessary steps to reduce smog and the negative health impacts where citizens live, work, learn and play," says EPA Regional Administrator Gwen Keyes Fleming speaking about the 'Stop-N-Shop' case in which a two year prison sentence was recently handed down by a federal judge.



Sign advertising an emissions testing facility.

The EPA criminal enforcement program is part of EPA's Office of Enforcement and Compliance Assurance. It is headquartered in Washington, D.C. with field investigative offices in EPA's 10 regional offices and in more than 30 other locations across the country. The National Enforcement Investigations Center in Lakewood, Co., provides forensics, science and technical support for both criminal and civil environmental investigations. The National Computer Forensics Laboratory in Jacksonville, Fl., specializes in the seizure, review and analysis of electronic evidence and advanced undercover surveillance operations.

