

STATE OF NEW YORK

DEPARTMENT OF MOTOR VEHICLES

Pursuant to the authority contained in Sections 215(a), 301(a), 301(c), 301(d), 301(f), 302(a), 302(e), 302(f), 304(b) and 304-a of the Vehicle and Traffic Law, the Commissioner of Motor Vehicles hereby amends the Regulations of the Commissioner of Motor Vehicles as follows:

Subdivision (h) of section 79.1 is amended to read as follows:

(h) *Official inspection station (fleet)*. Any person, association or corporation having more than 25 motor vehicles registered in its name which has been issued a license by the Commissioner of Motor Vehicles to conduct inspections of motor vehicles registered in its name or leased by it for a period greater than 30 days and motor vehicles owned by its employees; or any [municipality] state agency or political subdivision having more than five motor vehicles registered in its name which has been issued a license by the Commissioner of Motor Vehicles to conduct inspections of motor vehicles registered in its name or leased by it for a period greater than 30 days[;] and motor vehicles registered in the name of any state agency or political subdivision. [certain vehicles of other municipalities as set forth in section 79.15 of this Part.]

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Section 79.1 is amended by adding new subdivisions (n), (s), (z) and (aa) to read as follows:

(n) [*Reserved.*] NYTEST receiving station. A licensed official high enhanced emissions public inspection station that meets the requirements set forth in section 79.16 of this Part and has elected to accept requests for safety/high enhanced emissions inspections (transient and idle tests) that have been referred by approved NYTEST sending station(s). A NYTEST receiving station is a voluntary participant in the NYTEST shared network.

(s) [*Reserved.*] NYTEST sending station. A licensed official high enhanced emissions public inspection station that has applied to and has received approval from the Department of Motor Vehicles to refer requests for safety/high enhanced emissions inspections (transient and idle tests) to NYTEST receiving station(s). A NYTEST sending station is a voluntary participant in the NYTEST shared network.

(z) Shared network agreement. A written contract or agreement between a NYTEST sending station and a NYTEST receiving station that establishes their contractual obligation to participate in the NYTEST shared network.

(aa) NYTEST shared network. A voluntary program available to licensed official high enhanced emissions public inspection stations located in the New York Metropolitan Area. The two types of participants in the program, NYTEST receiving stations and NYTEST sending stations, are subject to modified requirements in fulfilling their obligations to the NYTEST high enhanced emissions inspection program. The administration of the NYTEST shared network program is at the discretion of the Commissioner of Motor Vehicles, to include, but not limited to: the approval of stations to participate in the program; the timeframe for

approval of any application to participate in the program; and the number of stations permitted to participate in the program.

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Subdivision (a) of section 79.2 is amended to read as follows:

(a) All motor vehicles registered in this State must be inspected in accordance with the provisions of this Part unless expressly excluded by subdivision[s] (d) [and (e)] of this section.

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Paragraph (3) of subdivision (b) of section 79.2 is amended to read as follows:

(3) Registered dealers do not have to inspect vehicles classified on the certificate of sale, MV-50, as "chassis", "FDD" (factory direct delivery), "O of S" (out of state), "junk[,]", "long term lessee" [lease buyout] (lease buyout), ["] or "wholesale." Such indication should appear in the inspection block on the MV-50.

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Subdivision (g) of section 79.2 is amended to read as follows:

(g) A vehicle registered with [official] "OFFICIAL" plates or [State] "STATE" plates shall be subject to the same inspection it would be subject to if it were privately owned and registered.

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Paragraph (1) of subdivision (h) of section 79.2 is amended to read as follows:

(1) emergency vehicles as defined by section 101 of the Vehicle and Traffic Law. These include: ambulances, police vehicles, correction vehicles, fire vehicles, civil defense emergency vehicles, emergency ambulance service vehicles, blood delivery vehicles, county emergency medical services vehicles, environmental emergency response vehicles, sanitation patrol vehicles, hazardous materials emergency vehicles, and ordnance disposal vehicles of the armed forces of the United States;

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Paragraph (5) of subdivision (h) of section 79.2 is amended to read as follows:

(5) special purpose commercial vehicles as set forth in Section 401(7)(F)(a) of the Vehicle and Traffic Law. (*Note: Special purpose commercial vehicles are exempt from the safety inspection.*); and]

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Subdivision (a) of section 79.8 is amended to read as follows:

(a) An [applicant for a license for an] official inspection station [obligates himself] licensee is obligated to inspect vehicles in accordance with these regulations. By issuing a certificate of inspection, the licensee certifies that:

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Paragraph (1) of subdivision (b) of section 79.8 is amended to read as follows:

(1) to conduct, as promptly as possible, a thorough and efficient inspection of any vehicle, including a vehicle registered in another state, which the station is qualified to inspect, and which is presented to the station for an official inspection. Such inspection must be performed in the manner prescribed; provided however, a NYTEST sending station is not qualified to inspect vehicles that are subject to a safety/high enhanced emissions inspection (transient and idle test). All requests presented to a sending station for safety/high enhanced emissions inspections must be presented or referred to a NYTEST receiving station;

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Paragraph (4) of subdivision (b) of section 79.8 is amended to read as follows:

(4) to make these regulations and procedures available to all personnel that are certified to [make] perform inspections;

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Subdivision (c) of section 79.8 is amended to read as follows:

(c) The inspection station will make an appointment when [the] any vehicle that the station is qualified to inspect cannot be inspected in a convenient time span. In addition, upon request of a vehicle owner or operator, a NYTEST sending station shall set up an appointment for a safety/high enhanced emissions inspection (transient or idle test) with a network NYTEST receiving station on behalf of the vehicle owner or operator.

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Paragraph (1) of subdivision (c) of section 79.8 is amended to read as follows:

(1) When the inspection station is unable to inspect a vehicle within a time span convenient to the vehicle owner or operator, or, if a vehicle owner or operator requests that a NYTEST sending station set up an appointment on the vehicle owner's or operator's behalf, the inspection station shall set up an appointment for performing the inspection. The appointment shall be in writing and [on the inspection station's letterhead. The appointment notice] shall include:

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Subparagraphs (iv) and (v) of paragraph (1) of subdivision (c) of section 79.8 are amended to read as follows:

(iv) the name and address of the vehicle owner; [and]

(v) the signature of the inspection station licensee or [his] a designated employee[.]; and

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A new subparagraph (vi) is added to paragraph (1) of subdivision (c) of section 79.8 to read as follows:

(vi) the place that the vehicle is to be presented for the future inspection appointment, including the facility name, address and telephone number.

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Paragraph (3) of subdivision (c) of section 79.9 is amended to read as follows:

(3) The commissioner may waive the dimension standards for a public inspection station [which] that was licensed prior to January 1, 1990, where there is an undue hardship or such waiver is in the public interest because of a lack of heavy vehicle inspection stations in an area. However, no waiver will permit a station to inspect a vehicle which cannot fit into its building.

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Subparagraphs (i), (ii) and (iii) of paragraph (1) of subdivision (d) of section 79.9 are amended to read as follows:

(i) a one-hole paper punch[,] that produces a round hole, one-quarter [1/4 to 1/2] inch in diameter;

(ii) a tire tread depth gauge calibrated in [32nds] thirty-seconds of an inch; and

(iii) a tire pressure gauge calibrated in lbs./sq. in. per square inch (psi).

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Paragraph (2) of subdivision (d) of section 79.9 is amended to read as follows:

(2) In addition to the equipment specified in paragraph 1 of this subdivision, an official low enhanced emissions inspection station and an official high enhanced emissions inspection station must also have the appropriate computerized vehicle inspection system (CVIS), approved by the Department of Environmental Conservation and the Department of Motor Vehicles, capable of performing OBD II and low enhanced emissions inspections. This equipment, which shall be known as the NYVIP CVIS, shall include but may not be limited to:

(i) computer;

(ii) controlling software;

- (iii) communications link prescribed by DEC and DMV;
- (iv) printer;
- (v) a DEC and DMV approved OBD II scan tool with appropriate connectors and software;
- (vi) bar code scanner; and

(vii) a dedicated phone line for transmission of all inspection data. An enhanced emissions station that has more than one CVIS unit must maintain at least one phone line dedicated for use by the CVIS; this line may be shared by other CVIS units. No line(s) used by CVIS unit(s) may be shared by any other equipment.

This equipment shall be delivered and installed in official low enhanced emissions inspection stations and official high enhanced emissions inspection stations as directed by the commissioner.

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Subparagraph (vi) of paragraph (3) of subdivision (d) of section 79.9 is repealed:

(vi) [camera;] Reserved.

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Subparagraphs (i), (ii), (iii) and (iv) of paragraph (5) of subdivision (d) of section 79.9 are amended to read as follows:

(i) a measuring device for brake adjustment, such as a steel scale or ruler or equivalent;

(ii) a one-sixteenth inch feeler gauge or equivalent;

(iii) a brake drum gauge or equivalent, capable of measuring up to a twenty-four inch drum; and

(iv) a rotor thickness gauge, such as a disc brake micrometer with a range from one inch to two inches, or equivalent.

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Paragraphs (6) and (7) of subdivision (d) of section 79.9 are amended to read as follows:

(6) Official emissions inspection stations must maintain their printers so that reports and other required documents print legibly and clearly. In addition, official high enhanced emissions inspection stations (excluding approved NYTEST sending stations) must maintain the sticker printer and replace the printer ribbon/ink cartridge on a regular basis so that stickers are legible for as long as the sticker is valid.

(7) [For official high enhanced emissions inspection stations, the NYTEST camera and recording device must be maintained in such a manner that all dynamometer and idle inspections will be properly recorded, making it possible to identify the subject vehicle by make, model, color, and where possible, license plate. Failure to so maintain the video system, or any act that would prevent the inspection from being properly recorded, will be a violation of this section. Access to the recording device shall be limited to agents of the Department of Motor Vehicles and representatives of the analyzer's manufacturer. The Department of Motor Vehicles shall retain the right to view and/or examine the video record, and to retrieve and/or exchange the recording media as necessary during any audit or investigation of the inspection station. Such video record shall be part of the record of inspection at the inspection station.] Reserved.

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A new subdivision (e) is added to section 79.9 to read as follows:

(e) [*Reserved*] Waivers of equipment requirements.

(1) Any licensed official high enhanced emissions public inspection station that makes application to and has received approval from the Department of Motor Vehicles to become a NYTEST sending station is exempted from the requirement to maintain and operate the NYTEST CVIS.

(2) Any licensed official heavy vehicle fleet inspection station is exempted from the requirement to have a brake drum gauge capable of measuring up to a twenty-four inch drum, if there are no vehicles in that particular fleet that are equipped with brake drums of that size. The station is required to have and maintain a brake drum gauge capable of measuring the largest brake drums found in that particular fleet of vehicles at any time. If a vehicle is added to the fleet that is equipped with larger brake drums, the station must immediately acquire and maintain a brake drum gauge capable of measuring the larger brake drums.

(3) Any licensed official heavy vehicle fleet inspection station is exempted from the requirement to have a rotor thickness gauge, if there are no vehicles in that particular fleet that are equipped with disc brakes. However, if a vehicle is added to the fleet that is equipped with disc brakes, the station must immediately acquire and maintain a rotor thickness gauge.

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Paragraphs (1), (2) and (3) of subdivision (f) of section 79.9 are amended to read as follows:

(1) [A person] Individuals will not be deemed to be [a] certified motor vehicle [inspector] inspectors unless [he or she has] they have a currently valid certified motor vehicle inspector's certificate, issued in accordance with section 79.17 of this Part.

(2) [A person who has] Individuals who have been issued a certified motor vehicle inspector's certificate may be employed at any official inspection station for the purpose of inspecting only those vehicles appropriate to the type of vehicle [he is] they are allowed to inspect as it appears upon [his] their certificate and appropriate to the type of vehicle allowed to be inspected by such official inspection station.

(3) An automotive facilities inspector or any other agent appointed by the commissioner is authorized to test certified motor vehicle inspectors for competency where reasonable grounds exist to believe that the inspector is incompetent in conducting inspections of vehicles. If an inspector fails to pass such test, [he or she] such inspector will be deemed incompetent, and will not be permitted to conduct further inspections until a subsequent special written examination authorized by the commissioner is passed. If the certified motor vehicle inspector fails the special written examination, the commissioner shall revoke the inspector's certificate. The certified motor vehicle inspector's certificate may be reinstated when the inspector certification training program is successfully completed and the written examination of such program is passed.

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Subdivision (b) of section 79.15 is amended to read as follows:

(b) Trailer only dealer stations - Dealers registered under section 415 of the Vehicle and Traffic Law, engaged in the business of selling trailers may qualify for an official inspection station license [(public)] (dealer) restricted to the inspection of only this type of vehicle. Such a license may be issued without the necessity for enclosed space as required in 79.9(b) of this Part, except that office space must be available on the premises for the safekeeping of inspection records and other items required by this Part. Such a dealer would be restricted to the inspection of light duty trailers with a gross weight of 10,000 lbs. or under, as required by section 79.22 of this part. If the dealer wishes to inspect trailers with a gross weight of more than 10,000 lbs., the required enclosed space must be maintained and those trailers must be inspected inside the premises.

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Paragraph (1) of subdivision (c) of section 79.15 is amended to read as follows:

(c) Fleet Stations. (1) Any person, association or corporation, having registered in his or its name more than 25 motor vehicles, and any state agency or political subdivision [which qualifies for a license as an official inspection station (fleet), or municipality] having registered in its name more than five vehicles, [which qualifies] may qualify for a license as an official inspection station (fleet)[,]. A person, association or corporation licensed as an official fleet inspection station may inspect only those motor vehicles registered in his or its name, those leased for a period [of 30] greater than 30 days, and those motor vehicles owned by his or its employees. A state agency or political subdivision licensed as an official fleet inspection station may inspect only those motor vehicles registered in its name, those leased for a period greater than 30 days, and those motor vehicles registered in the name of any state agency or political subdivision. Any fleet inspection station that is exempt from payment of fees for inspection certificates under the provisions of subdivision (b) of section 305 of the Vehicle and Traffic Law may not inspect motor vehicles owned by its employees. An official inspection station (fleet or dealer) may only inspect those vehicles it is qualified to inspect. In addition, a state agency or political subdivision licensed as an official fleet inspection station that offers to inspect motor vehicles that are registered to other state agencies or political subdivisions is required to verify that the motor vehicles are registered to another state agency or political subdivision. A fleet inspection station may contract to provide inspection personnel at the fleet license facility, provided only certified inspectors perform inspections. The fleet inspection station will remain responsible for all inspections. For the purposes of this Part, a political subdivision may include, but is not limited to: a county; a city; a village; a town; a school district; a fire district; a county extension service association; or a public improvement district. [In addition, a county, or any town or municipality within the county, licensed as an official inspection station (fleet) may inspect vehicles owned by

and registered in the name of another municipality or town located within the county. However, the State, a city, county, village, town, school district, or any of the departments thereof, which are exempt from payment of fees for inspection certificates, under the provisions of subdivision (a) of section 305 of the Vehicle and Traffic Law may not inspect motor vehicles owned by its employees.]

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Paragraph (3) of subdivision (c) of section 79.15 is amended to read as follows:

(3) A fleet inspection station licensed to inspect Group 1A vehicles must have the appropriate CVIS for emissions inspection[, or]. A person, association or corporation licensed as an official fleet inspection station may be exempted from this requirement if the station can demonstrate that it has [at least 25] more than 25 Group 1A vehicles in its fleet that are not subject to emissions inspection. A [municipal] state agency or political subdivision licensed as an official fleet inspection station may be exempted from this requirement if the station can [must] demonstrate that it has more than 5 vehicles in its fleet that are not subject to emissions inspection. [exempt from emissions testing.] If a fleet inspection station is exempted from purchasing the CVIS, any vehicle in the fleet subject to emissions inspection must then be inspected at another facility licensed and equipped to perform the proper inspection.

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Paragraph (5) of subdivision (f) of section 79.15 is amended to read as follows:

(5) an official inspection station (fleet or dealer) is not required to maintain inspection rejection notices (form VS-1075), unless it inspects employee vehicles or is a state agency or political subdivision licensed as an official fleet inspection station that offers inspections to other state agencies or political subdivisions;

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A new paragraph (6) is added to subdivision (h) of section 79.15 to read as follows:

(6) An education facility licensed to inspect Group 1A vehicles must have the appropriate CVIS for emissions inspection, except that a facility located in the NYMA may be exempted from the requirement to maintain the NYTEST CVIS equipment. Any education facility that does not maintain the NYTEST CVIS equipment will not be permitted to order high enhanced emissions inspection certificates (form VS-1082E) and shall not be permitted to inspect vehicles that are subject to a high enhanced emissions inspection.

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A new section 79.16 is added to read as follows:

79.16 [Reserved] Special requirements for stations participating in the NYTEST shared network.

(a) NYTEST receiving station eligibility and operating requirements. A NYTEST receiving station is subject to all of the rules and regulations governing licensed official high enhanced emissions public inspection stations. In addition, NYTEST receiving stations must comply with the following requirements:

(1) have a valid official high enhanced emissions public inspection station license.

(2) maintain a valid service contract with a NYTEST vendor covering each NYTEST CVIS that the NYTEST receiving station operates. Such contract(s) must provide for the maintenance and repair of the NYTEST CVIS equipment for the duration of such contract(s).

(3) enter into shared network agreement(s) in the manner prescribed in section 79.16(d) of this Part.

(4) have the capability of performing the projected number of inspections that would be reasonably anticipated, based upon the shared network agreement(s) entered into with all NYTEST sending stations.

(5) perform both the safety and emissions portions of inspections for all vehicles subject to a safety/emissions inspection, including all vehicles referred or presented by a network NYTEST sending station.

(6) perform reinspections (including all vehicles referred or presented by a network NYTEST sending station) in accordance with section 79.24(h) of this Part.

(7) make charges for inspections (including all vehicles referred or presented by a network NYTEST sending station) in accordance with sections 79.7(c), 79.8(b)(5), 79.20(c)(6) and 79.24(c)(3) and (4) of this Part.

(8) make charges for reinspections (including all vehicles referred or presented by a network NYTEST sending station) in accordance with sections 79.20(d)(1) and 79.24(h) of this Part. The vehicle owner or operator may be charged one inspection fee following the initial presentation of the vehicle for inspection, even if there were reinspection fees incurred by the NYTEST sending station. The vehicle owner or operator may be charged one reinspection fee following each subsequent presentation of the vehicle for reinspection, even if there were multiple reinspection fees incurred by the NYTEST sending station.

(9) immediately notify each approved NYTEST sending station within your network, in writing, of any event that prevents the NYTEST receiving station from conducting high enhanced emissions inspections, such as, but not limited to: suspension or revocation of the inspection station license; going out of business; retirement; removal of receiving station designation; and certain license amendments that cause station incompatibility (including, but not limited to, change of location, change of inspection groups, etc.).

(10) The NYTEST receiving station must provide the inspection receipt to the individual that presented the vehicle for inspection (the vehicle owner, registrant, or operator, as appropriate, or the NYTEST sending station representative). In addition, in the event the vehicle fails inspection, the NYTEST receiving station must provide the rejection notice to the individual that presented the vehicle for inspection.

(11) In order to withdraw the designation as a NYTEST receiving station, the licensee must make such request, in writing, to the DMV application processing unit. The request must include the facility name, facility address, facility number, reason for the request and must be signed by an owner or officer of or a partner in the business. The withdrawal of the designation as a NYTEST receiving station will become effective when the station receives an approval letter from the Department of Motor Vehicles.

(12) A NYTEST receiving station must ensure that customers are not inconvenienced and that they are not prevented from retrieving their vehicle in a prompt and timely manner. It is not the responsibility of the Department of Motor Vehicles to resolve any disputes, financial or otherwise, between participating stations.

(b) NYTEST sending station eligibility and operating requirements. A NYTEST sending station is subject to all of the rules and regulations governing licensed official high enhanced emissions public inspection stations. In addition, NYTEST sending stations must comply with the following requirements:

(1) have a valid official high enhanced emissions public inspection station license, and must have held the license for at least twelve (12) months prior to the date of application. The department will not approve a shared network application if the NYTEST sending station applicant does not meet the requirements of this paragraph unless a waiver has been requested in writing and has been approved by the department. The approval of a waiver is at the sole discretion of the Commissioner of Motor Vehicles.

(2) enter into shared network agreement(s) in the manner prescribed in section 79.16(d) of this Part.

(3) maintain at least one, up to a maximum of three, valid, “in force”, shared network agreements. The Department of Motor Vehicles will not consider a shared network agreement to be “in force” if any event occurs that prevents the NYTEST receiving station from conducting high enhanced emissions inspections, such as, but not limited to: suspension or revocation of the inspection station license; going out of business; retirement; removal of receiving station designation; and certain license amendments that cause station incompatibility (including, but not limited to, change of location, change of inspection groups, etc.). If a NYTEST sending station fails to maintain at least one “in force” shared network agreement, then all inspection activities (including safety inspections and NYVIP OBD II inspections) at the NYTEST sending station shall be prohibited. The NYTEST sending station will be permitted to resume inspection activities when an “in force” shared network agreement is established.

(4) submit a separate shared network application to the DMV application processing unit for each shared network agreement initiated, in the manner prescribed. The approval of any application to become a NYTEST sending station is at the sole discretion of the Commissioner of Motor Vehicles. The applicant must attach the following documents to the shared network application:

(i) a copy of the shared network agreement;

(ii) a copy of the valid NYTEST receiving station service contract(s);

(iii) a copy of the results of a computer search for directions, utilizing mapping software, that indicates the driving distance and the driving time between the proposed NYTEST receiving station and the proposed NYTEST sending station, and, if applicable, a request for a waiver from the driving distance and driving time requirements.

(5) surrender all high enhanced emissions inspection certificates to the Department of Motor Vehicles within thirty (30) calendar days after the date of the approval letter. An appropriate credit will be issued and the station will not be permitted to order high enhanced emissions inspection certificates.

(6) submit a separate application for each shared network agreement terminated in the manner prescribed.

(7) conduct only those types of inspections that the station is qualified to perform. After approval, a NYTEST sending station is not qualified to perform safety/high enhanced emissions inspections (transient and idle tests) and is not permitted to perform only the safety portion of a safety/high enhanced emissions inspection.

(8) make charges for inspections (including all vehicles presented to a network NYTEST receiving station) in accordance with sections 79.7(c), 79.8(b)(5), 79.20(c)(6) and 79.24(c)(3) and (4) of this Part.

(9) make charges for reinspections (including all vehicles referred or presented by a network NYTEST sending station) in accordance with sections 79.20(d)(1) and 79.24(h) of this Part. The vehicle owner or operator may be charged one inspection fee following the initial presentation of the vehicle for inspection, even if there were reinspection fees incurred by the NYTEST sending station. The vehicle owner or operator may be charged one reinspection fee following each subsequent presentation of the vehicle for reinspection, even if there were multiple reinspection fees incurred by the NYTEST sending station.

(10) refer all customer requests for safety/high enhanced emissions inspections (transient and idle tests) to a NYTEST receiving station in the manner prescribed in section 79.16(c) of this Part.

(11) In order to withdraw the designation as a NYTEST sending station, the licensee must make such request, in writing, to the DMV application processing unit. The request must include the facility name, facility address, facility number, reason for the request and must be signed by an owner or officer of or a partner in the business. In addition, the licensee must submit a completed shared network application in order to drop each NYTEST receiving station in the NYTEST sending station's network. The withdrawal of the designation as a NYTEST sending station will become effective after the station demonstrates that the NYTEST CVIS equipment is fully functional and operational.

(c) NYTEST sending station referral procedures. A NYTEST sending station must comply with the following requirements:

(1) If a vehicle owner or operator presents a vehicle to a NYTEST sending station for a safety/high enhanced emissions inspection (transient or idle test) and an inspection appointment has not been previously made, the NYTEST sending station shall comply with any one of the following options. However, if a vehicle owner or operator requests that a NYTEST sending station set up an appointment on the vehicle owner's or operator's behalf, the station must choose an option set forth in subparagraph (ii) or (iii) of this paragraph:

(i) notify the vehicle owner or operator of the facility name, facility address, and telephone number of a network NYTEST receiving station and advise the vehicle owner or operator of the two options, that is: present the vehicle to the NYTEST receiving station for an inspection; or, contact the NYTEST receiving station for an appointment for an inspection.

(ii) make an appointment for a safety/high enhanced emissions inspection (transient or idle test) on behalf of the vehicle owner or operator with a network NYTEST receiving station and direct the vehicle owner or operator to present the vehicle to the NYTEST receiving station at the time of such appointment. The

appointment information must be given to the vehicle owner or operator in writing, and must be in accordance with section 79.8(c) of this Part.

(iii) with the vehicle owner's or operator's consent, make an appointment for a safety/high enhanced emissions inspection (transient or idle test) on behalf of the vehicle owner or operator with a network NYTEST receiving station and direct the vehicle owner or operator to return the vehicle to the NYTEST sending station prior to the time of such appointment. Then, with the vehicle owner's or operator's consent, complete a work order and accept responsibility for obtaining a safety/high enhanced emissions inspection (transient or idle test) and present the vehicle to the network NYTEST receiving station on behalf of the vehicle owner or operator at the time of such appointment. The appointment information must be given to the vehicle owner or operator in writing and must be in accordance with section 79.8(c) of this Part.

(iv) with the vehicle owner's or operator's consent, complete a work order and accept responsibility for obtaining a safety/high enhanced emissions inspection (transient or idle test) within a time span that is convenient to the customer and present the vehicle to a network NYTEST receiving station on behalf of the vehicle owner or operator.

(2) If a vehicle owner or operator presents a vehicle to a NYTEST sending station for a safety/high enhanced emissions inspection (transient or idle test) and an inspection appointment has been previously made, the NYTEST sending station must, with the vehicle owner's or operator's consent, complete a work order and accept responsibility for obtaining a safety/high enhanced emissions inspection (transient or idle test) and present the vehicle to the network NYTEST receiving station on behalf of the vehicle owner or operator at the appointment date and time.

(3) If a NYTEST sending station accepts responsibility for presenting a vehicle to a NYTEST receiving station for an inspection or a reinspection, the NYTEST sending station must comply with the following requirements:

(i) The inspection or reinspection fee(s) charged by the NYTEST receiving station to the NYTEST sending station are the responsibility of the NYTEST sending station.

(ii) The inspection or reinspection fee(s) charged by the NYTEST sending station to the vehicle owner or operator must be computed as if the NYTEST sending station had performed the inspection or reinspection itself.

(iii) If an owner or operator presents a vehicle to a NYTEST sending station for a reinspection, an authorized representative of the NYTEST sending station shall ask the motorist to provide any rejection notice(s) issued within the past thirty (30) days, and provide such notice(s) to the NYTEST receiving station. If the NYTEST sending station fails to request this information, any fee(s) for the portion(s) of the inspection performed by the NYTEST receiving station that were not authorized by the NYTEST CVIS shall then be the responsibility of the NYTEST sending station.

(iv) In the event a high enhanced emissions inspection waiver is offered, the NYTEST sending station must sign the waiver form on behalf of the vehicle owner or operator, and notify the vehicle owner or operator, in writing, that a waiver was issued.

(v) The NYTEST sending station must disclose to the motorist, in writing, the location of the NYTEST receiving station that performed the inspection or reinspection.

(vi) The NYTEST sending station must provide to the vehicle owner, registrant, or operator, as appropriate, any inspection receipt and rejection notice issued by the NYTEST receiving station.

(vii) A NYTEST sending station must ensure that customers are not inconvenienced and that they are not prevented from retrieving their vehicle in a prompt and timely manner. It is not the responsibility of the Department of Motor Vehicles to resolve any disputes, financial or otherwise, between participating stations.

(d) Requirements for shared network agreements. All shared network agreements must meet the following requirements:

(1) must be a written contract or agreement.

(2) must be legible.

(3) must be in English.

(4) must be signed by an authorized representative (an owner or officer of or a partner in the respective businesses) of the NYTEST sending station and the NYTEST receiving station.

(5) must contain provisions for the NYTEST receiving station to inspect all vehicles referred or presented by the NYTEST sending station and must stipulate the period of time that the NYTEST receiving station is obligated to perform this service.

(6) may contain provisions that the NYTEST sending station provides payment to the NYTEST receiving station.

(7) A shared network agreement should contain a clause that makes the effective date of the agreement contingent upon DMV approval of the application to establish the NYTEST Sending Station/NYTEST Receiving Station relationship.

(8) The parties to a shared network agreement must be within five (5) driving miles and fifteen (15) driving minutes from each other. The department will not approve those shared network agreements that do not meet this requirement, unless a waiver has been requested and approved. The approval of all waivers is at the sole discretion of the Commissioner of Motor Vehicles.

(9) If a NYTEST sending station is licensed to inspect vehicles in group 1a of section 79.7(c)(1) of this Part, then the NYTEST receiving station must also be licensed to inspect vehicles in group 1a. If a NYTEST sending station is licensed to inspect vehicles in group 2a of section 79.7(c)(1) of this Part, then the NYTEST receiving station must also be licensed to inspect vehicles in group 2a.

(e) Miscellaneous Provisions.

(1) In order to systematically reduce the number of NYTEST equipped inspection stations and to ensure the overall viability of the NYTEST high enhanced emissions inspection program, the Commissioner of Motor Vehicles reserves the right to determine the rate of reduction of the number of NYTEST equipped stations in any given geographical area, the minimum number of NYTEST equipped stations in any given geographical area and the official start date of the shared network concept program.

(2) The status of an official high enhanced emissions public inspection station as either a NYTEST receiving station or NYTEST sending station is a matter of public record.

(e) Violations. Any violation of the provisions of this section are subject to the same penalties as any violation of the provisions of this regulation, as set forth in section 79.14 of this Part.

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Paragraphs (1), (5) and (6) of subdivision (b) of section 79.17 are amended to read as follows:

(1) When directed by [their] one's employer, to conduct in a competent manner, as promptly as possible, a thorough and efficient inspection of motor vehicles, including a motor vehicle registered in another State, appropriate to the type of motor vehicle [he] one may be allowed to inspect as it appears upon [his] one's certificate and which the official inspection station is allowed to inspect, and which is presented to the station for a statutory periodic inspection; and be able to make minor repairs to correct items which cannot be approved upon initial inspection. Such inspection must be performed in the manner prescribed by the commissioner.

(5) A person who has been issued, by the commissioner, a motor vehicle inspector's certificate (form VS-26) must present [their] the certificate to [their] one's current employer and to any other subsequent employer, who shall immediately record the certificate number on the appropriate forms or in the CVIS as prescribed by the commissioner.

(6) During [their] one's hours of employment at the official inspection station, the inspector must have [in his or her] possession [his or her] of one's own motor vehicle inspector's certificate (form VS-26) and must present on demand such certificate to an automotive facilities inspector or any other agents appointed by the commissioner.

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Paragraphs (1) and (2) of subdivision (c) of section 79.17 are amended to read as follows:

(1) In no event shall any of the aforementioned duties of certified motor vehicle inspectors, employed at an official inspection station, relieve the licensee of an official inspection station of [their responsibilities] the responsibility for all inspection activities conducted at the inspection station as stated in section 79.8(b) of this Part.

(2) A certified motor vehicle inspector shall not permit [his or her] one's certificate to be used by any other person and shall not leave [their] one's [card] certificate unattended. A certified motor vehicle inspector shall not use any other inspector's certificate, and shall not allow one's certificate to be used by any other person. Such certificate shall not be altered or reproduced. The Department of Motor Vehicles may issue a

temporary certificate after application to replace a defective or lost certificate. A temporary certificate is equivalent to a permanent certificate (form VS-26) and must be safeguarded in the same manner. A certified inspector must not allow one's temporary certificate to be used by any other person and a certified inspector must not use any other inspector's temporary certificate. Upon receipt of a permanent certificate, the temporary certificate must be destroyed.

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Subdivisions (d) and (e) of section 79.17 are amended to read as follows:

(d) In order to perform high enhanced dynamometer or idle emissions inspections in an official high enhanced emissions inspection station, a person must be certified in high enhanced exhaust emissions inspection in addition to the requirements set forth in [paragraph] subdivision (a) of this section. Certification for high enhanced emissions inspection shall be granted upon completion of an approved high enhanced emissions course.

(e) In order to perform OBD II inspections in an official high or low enhanced emissions inspection station, using the NYVIP CVIS, an inspector must also successfully pass the computer-based exam on the CVIS, in addition to the requirements set forth in [paragraph] subdivision (a) of this section.

* * * * *

Paragraph (6) of subdivision (a) of section 79.20 is amended to read as follows:

(6) results of the inspection (pass, fail), including any required advisory notifications to the motorist such as the air bag warning light malfunction advisory (see section 79.21(k) of this Part) or the tire pressure out-of-range advisory (see sections 79.21(c), 79.27(a) and 79.28(f) of this Part); and

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Subparagraph (ii) of paragraph (2) of subdivision (a) of section 79.24 is amended to read as follows:

(ii) Only an Official High Enhanced Emissions Inspection Station other than a NYTEST Sending Station may perform High Enhanced Emissions Inspections (Dynamometer or Idle Tests).

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Paragraph (3) of subdivision (c) of section 79.24 is amended to read as follows:

(3) If a vehicle fails the Pre-Emissions Inspection Safety Check, it shall not be inspected. This refusal shall not constitute an inspection, no inspection fee shall be charged, and the station should instruct the motorist [that he/she must] to return the vehicle in a repaired condition in order for the vehicle to be inspected.

* * * * *

Subdivisions (b) and (d) of section 79.25 are amended to read as follows:

(b) If all of the above conditions are met, the CVIS will allow the inspector to issue an inspection certificate for the vehicle. If issuing a “Safety/Emissions” sticker VS-1082SE, check the “Repair Waiver Issued” box on the reverse side of the form and punch the appropriate expiration month. The NYTEST or NYVIP CVIS will print a waiver certification form that must be filled out by the station, and signed by both the customer and the certified inspector. The station must attach the following documentation to the waiver certification form: copies of invoices and receipts for all of the diagnostic and repair work performed and used to qualify for the waiver; copies of all vehicle inspection receipts and/or inspection rejection notices for the initial emissions inspection failure and all subsequent emissions inspection failures. This [form and all repair] documentation must be kept by the station for two years for possible review by NYS.

(d) Official Inspection Stations Fleet (see section 79.15) may only apply the cost of parts towards a waiver; no labor may be applied. All diagnosis and repairs must be documented, as described in [paragraph] subdivision (c) of this section.