SCANNED

APPENDIX 10

DMV Audit Procedures

Chapter 3.1: NYVIP Audit Procedures

Subject: Audit Guidance Document

Note: An Inspection Audit Checklist & Reports procedure has been compiled that gives the basic items and procedures for a Program Audit of a NYVIP station, along with a Menu Road Map of the menu choices. Although sufficient detail to perform the audit has been provided in these documents, and in some cases a little extra, they were intended to be used as a checklist and not an explanation of what the AFI was supposed to do. This Audit Guidance Document hopefully will cover all that.

Purpose:

The purpose of issuing the Audit Checklist & Reports and this Audit Guidance Document is to provide standardization of audit procedures among Regions. There is always room for additional investigation, but whenever possible, this procedure should be followed.

Why Audit?

The purpose of the Audit is to insure that the facility:

- has the required equipment and staff
- is following proper inspection procedure (e.g. weight and fuel changes)
- Is keeping proper records as required in the regulations

It can also be used to:

- obtain information related to a complaint, CI or CX
- obtain confirmation data to be used with a Desk Audit

Note: It is always better to present corroborating evidence obtained from the facility's machine in addition to evidence obtained from DMV records. This not only strengthens the case, but will eventually reinforce our position with the ALJ's that the data evidence is accurate. The following are two examples to support this need:

1) Presenting a State message printed from the NYVIP unit shows that the facility has the ability to receive such messages, and that the facility should have known about and followed the instructions we sent. The NYVIP unit will display at least the last five messages sent. If it's not possible to print a particular message, because it is no longer displayed, any message will prove that they can be received and printed.

2) Presenting inspection records and data for a particular vehicle, obtained from the NYVIP unit, will strengthen a Desk Audit case in that it removes the question of whether or not the data we ran from our office is accurate, and will show that it really did come from the respondent facility.

Past Lock-out Procedure:

In the previous program upstate, and with non-NYTEST stations, an AFI would "stop inspections" by writing such a note on the VS-1074 and signing it. Obviously, this did not actually "stop" the inspection activity.

New Lock-out Procedure:

With NYTEST, and now NYVIP, Vehicle Safety has the ability to lock out the unit and stop inspections. A facility could, of course, continue to issue stickers without using the NYVIP unit, which is why we should probably continue to pick up stickers when the station is suspended after a hearing or other action.

There are other reasons to stop or "lock-out" a unit, such as:

- because of equipment deficiencies
- lack of a full time inspector

Temporary Stops/Lock-outs:

Note: Vehicle Safety has procedures to put a temporary stop on a facility license, which will lock-out a unit the first time it makes an inspection inquiry call. It's tempting to initiate a stop immediately when performing an audit and finding a deficiency, but an AFI should never do anything to the unit that will prevent it from operating.

Justifying a temporary stop/lock-out:

Any action by the AFI that could be construed as "tampering" will weaken any subsequent case against the facility. Following established procedure will also prevent any complaints that the AFI acted in an arbitrary or capricious manner. The temporary stops are designed to be put on immediately, and removed immediately when we receive proof that the problem has been corrected. An AFI cannot do that without making a return visit to the facility, which inconveniences both the facility and the AFI.

Requests for a temporary stop/lock-out:

Temporary stops will be requested by the AFI or the Sr. AFI in accordance with Regional policy. Clean Air will handle the processing and log them in a file so we can verify that the correction reported by the facility addresses the reason for the stop given by the AFI. This procedure has withstood legal challenges and should be followed for "routine" stops.

Data Refresh:

A Data Refresh should be performed sometime during the audit in order to:

- ✓ download sticker inventory
- ✓ update files
- ✓ upload off-line inspection data
- ✓ lockup the unit if a stop has been put on the facility file.

Note: The Data Refresh can be performed anytime during the audit, and can be done from either the Vehicle Inspection Menu or the State Menu.

When should the Data Refresh be done?

The Data Refresh should be done from the Vehicle Inspection menu immediately prior to leaving the facility. This ensures that the unit is operating normally and that the AFI did not leave the facility with problems. One more way that the AFI can avoid allegations of causing problems with the machine.

Modem Number Verification:

The modem number (the number the machine is connected to and dials from) should be verified. It can be viewed on the Facility Setup Report, or the AFI can use the Update Communications option in the State Menu. This option will result in a Data Refresh call, and the modem phone number can be reviewed there also.

Changing Modem Numbers:

A caution: the modem number can be changed by the AFI, but that should not be done. If the number is incorrect, the station manager should make the change from the Station Menu using Facility Update. After scanning the license, the manager should press F2 and review the information. The modem number can be changed at that time. The station should notify SGS Testcom of the change, as it will be needed for Remote Diagnostics

Desk Audits:

Desk Audits will be an important part of this program, just as they have been in the NYTEST program. AFIs will need information that will show when a station is making an improper weight, fuel, or year change, or other actions to by-pass an OBD II test. There will be training on how to identify and pursue stations that "Clean Scan".

Copying of Files:

Copying of files from the analyzer will probably not be a routine part of the audit. The files can be used to verify vehicle or facility information, but probably will not be needed on a routine basis. Copying the files involves removing and replacing the backup floppy disk; one more thing that an AFI should be careful of because not replacing it will keep the unit from operating. One more reason to do a Data Refresh last.

Daily Reports:

Regulations specifically require that inspection records be printed daily, using either a Daily Report or a Detail Report. The option to print either exists because, although the Detail Report is obviously a better report, a NYTEST unit will only print a Daily Report; the station does not have the option of a Detail Report, and regulations must address and include both programs. Although the NYVIP unit has the ability to print these records on a basis other than daily (weekly, monthly, etc.), the regulation specifically requires them to be printed daily. Any inspections performed should be recorded daily, even if there is only one. Stations may question why this must be done, and the answer is that if the unit "crashes" the information will be lost and the station will not be able to print the records.

Reinspection Fees:

If a vehicle has not left the station since the prior inspection, the station cannot charge for a reinspection fee. The NYVIP unit does not know whether or not the vehicle left, so the fee is printed on the receipt. There will be an education issue with some shops that try to charge the fee anyway, and use the "the machine made me charge it" defense. The regulation should be explained, and it should be noted that this is not a new regulation; the facility has not been able to charge in this situation under previous regulations as well

Sticker inventory and record review:

The AFI should be able to look back over a year's worth of data, possibly more. A review of the facility data, after it becomes available in the Region offices, would be useful to identify missing stickers or skipped books in high volume stations. "Missing" stickers/records have been caused by shutting off the machine before a receipt is printed, especially if the unit locks up. These inspections should be written on the Daily Report.

The Sticker Inventory Report will:

- ✓ list all stickers issued and;
- ✓ those still in inventory, sorted by type, and
- ✓ will list missing/stolen stickers, also sorted by type.

Note: All types of stickers will be listed in consecutive numerical order, and is probably the easiest method of determining missing stickers/records.

Last State Audit Date:

Note: The "Last State Audit Date" on various reports does not currently come up as the previous date, but as the current date the AFI is there. This will be changed in a future version of software, probably late in 2005, but in the mean time, if a Facility Setup Report is printed from the Station Menu, before the AFI enters the State Menu, the last audit date will be printed there. That will helpful to determine how far back to check records.

Offline Inspections:

If an AFI notices offline inspections are present, a Data Refresh (which the Audit Procedure instructs the AFI to do) should send them up. If it doesn't, then there may be a communication or equipment problem that the station must address

State messages:

The NYVIP specification only requires that the last five messages be displayed, however more than that may be viewable. The AFI should make sure that the station manager knows about the messages and how to view/print them. Future regulation revisions and other important memos will be transmitted this way. The station should be told of the mailbox icon that lets them know a new message has arrived. Note that this icon only indicates an unread message, and is not used to open the message.

Waivers:

The record review will show if the station has issued a waiver. The documentation must be available for the audit, and the repair invoices must be attached to the waiver document. Both the inspector and the motorist must sign the waiver document. The repair work documented must address the reason for the initial failure. Repairs covered by warranty, replacement of missing Emissions Control Devices, and Safety repairs do not count toward the waiver amount. Per NYS Sales Tax Division, sales tax on emissions repairs may be counted towards the waiver, but tax on other items/repairs may not.

NYVIP User Manual:

Stations should be encouraged to refer to the manual for problems. Clean Air has prepared a Quick Reference for the manual that makes it easier to locate information on specific problems. This document may be shared with any facility that would benefit from it.

TestCom State Manual:

TestCom has also prepared a State Manual that will be provided to all AFIs, and is designed to be inserted in their copy of the NYVIP User Manual. This insert describes the options and information available in the State Menu.

Problem vehicles, equipment problems, etc.:

DMV is not in the diagnosis and repair business. We should not attempt to answer questions regarding problem vehicles if the facility is looking for advice on how to set monitors or get a vehicle ready for inspection. There are information resources available to the business, and they should be encouraged to use them. Offering too much help can lead to the "DMV told me to do it that way" defense. We should, of course, answer program questions, such as the pass/fail requirements or record keeping requirements. Problems with the equipment should be referred to SGS Testcom, since the equipment is warranted for the expected life of the program.

Sticker inventory:

Facilities are able to send unusable stickers back to Vehicle Safety for refund. This will include stickers where the bar code was unreadable, or other damage. If an AFI sees that a sticker is recorded as damaged, but is missing, there should be a note that the sticker was sent back. If necessary, the AFI can check with the Accounting desk in Vehicle Safety to verify that the stickers were indeed returned. When Vehicle Safety ships a sticker order, the inventory is downloaded to the NYVIP unit on an inquiry or Data Refresh transaction. The AFI can go to the Add Stickers to Inventory option in the Sticker Management portion of the Station menu and view stickers that have been issued to the facility that the facility has not confirmed as receiving. Stickers that the facility does have should be checked off (confirmed) as received.

Printing All Reports:

Printing all the reports listed in the Audit Procedure may cause confrontation with the facility because we are using up their supplies (paper & ink). AFIs can view the reports before printing. Tact on the part of the AFI will help, but the regulations do specifically state that the AFI must be given access to the records and be allowed the opportunity to produce hard copies.

NYVIP Data Glossary:

There is a NYVIP data glossary that is posted on the Vehicle Safety web page (open up the NYVIP home page). This describes the data that is available in the NYVIP database, and which the Regions will eventually have access to.

Chapter 3.2: NYVIP Audit Procedures

Subject: Inspection Audit Checklist

Note: In order to save time, prior to performing any audit, request that all inspection certificates, daily reports for the time period under review, and certified inspector cards be made available for later review.

Checklist:

- ✓ Signs posted, e.g. outdoor sign, current facility licenses – verify inspection groups licensed to inspect, current list of inspectors, current fee chart, Warning to Motorists sign (VS-140).
- ✓ Proper equipment per inspection group.
- ✓ Inspector certification cards, accountability, security, at least one certified inspector valid in all groups that facility is licensed to inspect.
- ✓ Printing of daily reports on a daily basis. Are the records / Vehicle Inspection Receipts (VIRs) legible and printed dark enough? Detail Reports may be substituted for Daily Reports, at the station's option, but must still be printed daily.
- ✓ Sticker accountability e.g. damaged stickers, sticker inventory, and security.
- ✓ Waivers, excessive issuing, proper documentation & justified (cost of parts & labor for emission related repairs is at least $ 450.00). Diagnosis must be documented and repairs must pertain to the reason for failure.
- ✓ State Messages – make sure the facility knows how to read and print them.
- ✓ Perform Data Refresh – checks communications and downloads state message, sticker inventory, etc. This may be performed at any time during the audit to check communications or data downloads. Regardless of when it is performed, it should also be performed from the Vehicle Inspection menu immediately prior to the AFI leaving the facility to ensure that nothing done during the audit disabled the machine. This is to protect the AFI from facility claims that "the machine worked OK until the AFI tampered with it". The audit report should state that the data refresh was performed.

Subject: Inspection Audit Reports

Note: The FIVE reports listed below may be reviewed and/or printed. Access the reports needed to obtain the information needed. It is recommended that NYVIP audits contain at minimum the **Analyzer Status** and **Station Performance Reports.** The **Sticker Inventory** and **Inspection Detail Reports** may be printed if necessary, but may be too lengthy to print on a regular basis.

✓ **Record review and/or print (start from Main Menu)**

1. **Facility Setup Report**, #1 (accessed from Station Menu, #4)
   - Determine date of last State Audit, use this date to choose records to review/print
   - Check modem phone number
   - **See note in Guidance document**

2. **Analyzer Status Report**, #6 (accessed from State Menu, #5)
   - Inspectors – current and past (Check against the list posted.)
   - Software version (Check that the latest version is installed.)
   - Offline/online info
   - Telephone numbers
   - Maintenance log
   - Lockout status

3. **Station Performance Report**, #1 (accessed from State Menu, #5)
   - Next sticker # available, and inventory of available stickers
   - Inspectors
   - Waiver detail
   - 10-day temps
   - Off-line limit

4. **Sticker Inventory Report**, #4 (accessed from Station Menu, #4, then Sticker Management, #3)
   - Stickers issued
   - Sticker inventory (Check against on-hand stickers)
   - Damaged stickers (Look for Police Reports for "stolen" stickers, and "damaged" stickers to be with Daily Reports or shown as returned for credit.)

5. **Inspection Detail Report**, #2 (accessed from Vehicle Inspection Menu, #1 then Daily Reports, #5)
    - Vehicle/sticker records
    - Waivers (Check back-up documentation. The repairs listed must be to correct failures, not to replace "Tampered" items or Safety items. Repairs performed prior to the first failure do not count towards the waiver amount.)

Check and Verify Modem Phone Number:

NOTE: the modem phone number may be viewed from either the Update Communication option in the State menu, or the Facility Update option in the Station menu. The number should be verified with the facility. If the number needs to be changed, it should be done by the facility, not the AFI.