



Department of Environmental Conservation

Division of Air Resources

NEW YORK STATE IMPLEMENTATION PLAN

NEW YORK VEHICLE INSPECTION PROGRAM (NYVIP)

Final Revision

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New York State Department of Environmental Conservation
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NEW YORK STATE IMPLEMENTATION PLAN REVISION
- NEW YORK VEHICLE INSPECTION PROGRAM (NYVIP) -

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1.0 INTRODUCTION

A. Background

The federal Clean Air Act (Act) addresses the nation's chronic air pollution problems and requires states to bring their air quality into compliance with federal standards. In certain cases, the Act requires specific air pollution control programs. One of these programs, motor vehicle Inspection and Maintenance (I/M), remains crucial in achieving New York's air quality goals. The focus of this State Implementation Plan (SIP) revision is to update New York's March 1996 Enhanced Motor Vehicle I/M SIP to reflect the implementation of the new statewide New York Vehicle Inspection Program (NYVIP).

The cornerstone of the Act is the protection of public health through compliance with federal National Ambient Air Quality Standards (NAAQS). These standards have been established for six criteria contaminants: ozone, carbon monoxide, nitrogen dioxide, sulfur dioxide, particulate matter, and lead.

As the result of the 1-hr ozone and carbon monoxide non-attainment designations, New York State's 62 counties were divided into two separate I/M areas. The "downstate" 9-county New York Metropolitan Area (NYMA), which includes New York City (Bronx, Kings, New York, Richmond, and Queens Counties), Long Island (Nassau and Suffolk Counties), and Westchester and Rockland Counties, has been classified as a high enhanced I/M area. Beginning in 1981, applicable vehicles within the NYMA were required to undergo annual idle testing. The idle test program was upgraded to the NYTEST program in 1998. NYTEST includes transient testing for applicable vehicles to comply with the Act and subsequent I/M regulations under 40 CFR Part 51 (Part 51).

The remaining 53 "Upstate" counties of New York State were classified as a low enhanced I/M area. Since 1998, the Upstate I/M area featured annual anti-tampering visual inspections including a gas cap presence check.

Since all 62 counties of New York State are included within the Act's Ozone Transport Region (OTR) (42 USC 7511c), additional I/M requirements were required in the more populated Upstate areas pursuant to §51.350(a). To comply with these Upstate I/M requirements and to establish a consistent statewide on-board diagnostic (OBD II) inspection, New York implemented the New York Vehicle Inspection Program (NYVIP) program.

B. Statewide On-board Diagnostic (OBD II) testing

The statewide OBD II concept began with a Request for Information (RFI) developed by the New York State Departments of Motor Vehicles (DMV) and Environmental Conservation (DEC) in April 2002. The RFI process sought options, innovative ideas, and potential solutions from I/M equipment providers, scan tool manufacturers, data managers, and other interested parties in an effort to devise a cost-effective alternative for New York motorists. Using information and recommendations derived from responses to the RFI, New York developed the NYVIP Request for Proposal (RFP). The RFP was released on March 24, 2003, and sought a single program manager (Contractor) to implement NYVIP using the existing decentralized test-and-repair I/M network in both I/M areas. This network promotes motorist convenience as inspections and repairs (if necessary) can occur at the same location.

The statewide NYVIP program features the following design components:

- » develop, market, and deliver approved inspection equipment to participating decentralized test-and-repair stations statewide,
- » provide equipment maintenance (break/fix services)
- » provide management, reporting, and transfer of inspection results to DEC and DMV,
- » provide for the capability to upgrade and modify inspection software,
- » develop and maintain a public information website,
- » maintain a Help Desk for NYVIP inspectors,
- » develop a computer-based inspector training and certification program, and
- » implement a public awareness program.

Following the evaluation and ranking of submitted proposals, New York State awarded the NYVIP contract to SGS TESTCOM, Inc. on January 7, 2004. NYVIP was implemented in several phases with the initial roll-out beginning in the upstate 53 county I/M area. Limited upstate OBD testing using prototype software and equipment lasted from January to August 2004 with the cooperation of 30-40 stations. Installation of approved final NYVIP software/equipment began in September 2004 and the Upstate roll-out was deemed operational on December 1, 2004.

After receiving DEC/DMV approval of software, NYVIP equipment delivery proceeded in the NYMA from January to May 2005. The downstate roll-out was deemed complete in May 2005. Presently, approximately 9,700 stations (Upstate-6,060, NYMA-3,630) are submitting official NYVIP inspection records.

The NYVIP program has replaced “paper-based” record keeping in the Upstate 53 county I/M area as electronic inspection results are now forwarded to DEC and DMV. The transmission of electronic inspection results will also allow for a registration denial component to enforce motorist compliance.

Modifications to state regulations under 6 NYCRR Part 217 (DEC) and 15 NYCRR Part 79 (DMV) were required for the implementation of OBD II testing and NYVIP, and are included under Appendices 1 and 2, respectively.

C. NYTEST - OBD II Upgrade and Tailpipe Testing

As an interim measure, New York modified the NYTEST technical specifications to include an optional onboard diagnostic testing program. This upgrade was offered as a fixed time frame initiative to comply with EPA’s April 5, 2001 rulemaking (FR Volume 66, No. 66) that incorporated OBD checks into 40 CFR Parts 51 and 85. The NYTEST OBD program was intentionally designed to become obsolete when NYVIP expanded into NYMA from the Upstate I/M area. The program was termed “optional” since neither the NYTEST inspection stations or the NYTEST equipment providers were required to participate.

All three NYTEST equipment providers (ESP, SPX, and SUN) submitted OBD upgrades to DEC and DMV for approval, but only ESP and SPX received authorization to market their upgrades within the program’s time frame. The approved NYTEST upgrades included revised inspection software and OBD II hardware. If a station purchased the upgrade, NYTEST would require all applicable vehicles to receive an OBD II inspection, and mandatory pass/fail determinations were made (i.e., it was not an advisory program). In those limited cases where OBD communication was not possible with the NYTEST inspection equipment, tailpipe testing was authorized by the inspection software after conducting a quality assurance check.

The Departments approved the ESP and SPX OBD II upgrades on July 2 and October 18, 2004, respectively. The optional NYTEST OBD program officially ended on May 3, 2005 to allow for the orderly progression of the NYVIP roll-out into the NYMA. During the optional NYTEST program, roughly 560 stations completed approximately 470,000 OBD II inspections.

All NYMA licensed light duty inspection stations are currently required to own and operate both the NYTEST and NYVIP units to conduct all approved forms of emissions testing. OBD II applicable vehicles submitted for inspection in the NYMA can only be inspected on the NYVIP equipment.

NYTEST continues to be used for vehicles requiring either an idle or transient tailpipe inspection. New York executed the final time extension with the NYTEST data manager (also SGS TESTCOM, Inc.) to extend the NYTEST program from April 1, 2005 to April 1, 2007.

D. On-board Diagnostic Checks - Public Hearings

The EPA proposed a revised OBD check implementation schedule for both basic and enhanced I/M programs in a Notice of Proposed Rulemaking (NPRM) dated December 22, 1997. EPA Region 2, by letter dated February 27, 1998, requested New York to revise its March 1996 Enhanced I/M State Implementation Plan to reflect this NPRM. The SIP hearing for this commitment was held on July 21, 1998 in Loudonville, New York. On August 4, 1998, the DEC provided a SIP revision to EPA, whereas New York committed to include mandatory OBD checks for both the upstate and downstate I/M programs.

DEC's I/M regulations under 6 NYCRR Part 217 detail emission test standards to be used in New York I/M programs (NYTEST, NYVIP). Modifications to Subparts 217-1 and 217-4 were necessary to include statewide on-board diagnostic checks. DEC held public hearings in Albany, Long Island City, Syracuse, and Buffalo on the proposed revisions to Part 217 from April 2 -11, 2002.

Documentation related to the 1998 SIP revision and New York's public hearings (1998, 2002) associated with OBD checks are included in Appendix 3.

E. SIP Revision Format

The purpose of this SIP revision is to update New York's March 1996 Enhanced I/M SIP (where necessary) to reflect changes to both the downstate (NYMA) high enhanced I/M and the Upstate (53-county) low enhanced I/M areas. The same report format as used in the 1996 SIP has been adopted to aid in the review of this document. This SIP revision also fulfills New York's commitment to provide a Mobile Model performance standard evaluation for the Upstate I/M area. Table 1 indicates the status of the March 1996 SIP as a result of this SIP revision:

TABLE 1 : REVISIONS TO NY'S ENHANCED I/M SIP (MARCH 1996)

SECTION	STATUS
Section 2, Applicability (51.350)	Replaced in Full
Section 3, Enhanced I/M Performance Standard (51.351)	1996 SIP remains valid, an additional Upstate I/M modeling demonstration is included within
Section 4, Network Type & Program Evaluation (51.353)	Replaced in Full
Section 5, Adequate Tools and Resources (51.354)	1996 SIP remains valid, an updated discussion of the dedicated Mobile Source Account is included within
Section 6, Test Frequency and Convenience (51.355)	Replaced in Full
Section 7, Vehicle Coverage (51.356)	Replaced in Full
Section 8, Test Procedures and Standards (51.357)	1996 SIP remains valid, an updated discussion of OBD related procedures is included
Section 9, Test Equipment (51.358)	1996 SIP remains valid, an updated discussion of NYVIP OBD test equipment is included
Section 10, Quality Assurance & Quality Control (51.363, 51.359)	1996 SIP remains valid, an updated discussion of NYVIP QA/QC is included
Section 11, Waivers and Time Extensions (51.360)	1996 SIP remains valid, an updated discussion of NYVIP waiver and time extensions is included
Section 12, Motorist Compliance Enforcement (51.361)	Replaced in Full
Section 13, Motorist Compliance Enforcement Oversight (51.362)	Replaced in Full
Section 14, Enforcement Against Contractors, Stations, and Inspectors (51.364)	1996 SIP remains valid, an updated discussion regarding the NYVIP contractual requirements is included
Section 15, Data Collection (51.365)	Replaced in Full
Section 16, Data Analysis and Reporting (51.366)	Replaced in Full
Section 17, Inspector Training and Licensing or Certification (51.367)	Replaced in Full
Section 18, Public Information and Consumer Protection (51.368)	Replaced in Full
Section 19, Improving Repair Effectiveness (51.369)	Replaced in Full
Section 20, Compliance with Recall Provisions (51.370)	Replaced in Full
Section 21, On-road Testing (51.371)	No Changes
Section 22, State Implementation Plan Submissions and Deadlines (51.372, 51.373)	No Changes

2.0 APPLICABILITY (§51.350)

Section 2.0 of the March 1996 Enhanced Motor Vehicle I/M SIP is replaced in full by the following revision.

Section 182 (42 USC 7511a) of the Act requires motor vehicle Inspection and Maintenance (I/M) programs in those areas of the nation that are most impacted by carbon monoxide and ozone pollution. Section 184 (42 USC 7511c) of the Act also created an "Ozone Transport Region" which geographically includes the 11 states from Maryland to Maine (including all of New York State) and the District of Columbia Consolidated Metropolitan Statistical Area. Depending on the severity of the nonattainment designation(s) and/or geographic location within the OTR, EPA's regulation under Part 51.350 outlines the appropriate motor vehicle inspection and maintenance requirements. Significant revisions to the original 1992 Part 51 regulation were made in 1995 (the "Flex Rules") allowing states more discretion in defining the parameters of their I/M programs.

NYMA - Portions of the 9-county New York Metropolitan Area have been classified as in non-attainment of the 8-hr. ozone, carbon monoxide, and fine particulate matter (PM 2.5) National Ambient Air Quality Standards (NAAQS). NYMA is also included within the Ozone Transport Region.

In accordance with Part 51.350(1)(a) and Part 51.350(2), the NYMA I/M program area was developed to comply with the enhanced I/M performance standard prescribed under Part 51.351(a). New York's 1996 Enhanced I/M SIP demonstrated compliance with this standard through implementation of the NYTEST program. EPA approved the NYTEST-based enhanced I/M program in May 2001 (Region II Docket No.45-216) in 40 CFR Part 52. Since this time, New York has completed an optional NYTEST OBD program, implemented the statewide New York Vehicle Inspection Program, and has continued with the NYTEST tailpipe testing program (including increasing the stringency of NYTEST cutpoints) within NYMA. These actions have increased the effectiveness of the downstate enhanced I/M program.

Upstate 53-County Area - For the following reasons, the 53 Upstate counties posed several challenges in the implementation of an inspection and maintenance program:

- » The majority of the counties were (and still are) in attainment with the NAAQS standards and I/M was not a mandated program in all upstate counties.
- » Many of the counties are very rural in nature with very low population densities.
- » Implementation of I/M in only the required counties would create enforcement difficulties and equity issues with motorists and inspection stations.
- » Limited implementation of a "basic" I/M program would entail the purchase and use of seemingly out-dated idle emissions testing technology.

At the time of New York's 1996 SIP submission, revisions were proposed to the federal Part 51 regulations that could allow impacted states more flexibility in the design and implementation of their I/M programs. Since the proposed federal rulemaking had not been finalized, New York proposed an annual low enhanced inspection program in all 53 Upstate counties that included expanded visual anti-tampering

checks of emission control devices (“ECD checks”). New York also committed to completing a review of upstate I/M alternatives and the completion of an upstate modeling demonstration to determine compliance. This SIP revision serves to meet these commitments.

Part 51.350(a)(1) notes that, “States or areas within an ozone transport region shall implement enhanced I/M programs in any metropolitan statistical area (MSA), or portion of an MSA, within the state or area with a 1990 population of 100,000 or more as defined by the Office of Management and Budget (OMB) regardless of the area’s attainment classification ...” Further, Part 51.350(b)(1) adds under, “Extent of Area Coverage - In an ozone transport region, the program shall entirely cover all counties within subject MSAs or subject portions of MSAs, as defined by OMB in 1990, except largely rural counties having a population density of less than 200 persons per square mile based on the 1990 Census can be excluded except that at least 50% of the MSA population must be included in the program ...” EPA Region II provided DEC clarifications regarding the I/M applicability of several upstate counties on April 22, 1994. After evaluating the applicable census data, the following 16 Upstate counties were determined to need an enhanced I/M program:

TABLE 2 : REQUIRED ENHANCED I/M UPSTATE COUNTIES

Albany	Erie	Onondaga	Schenectady
Broome	Monroe	Orange	Saratoga
Chautauqua	Niagara	Putnam	Warren
Dutchess	Oneida	Rensselaer	Washington

Supporting documentation for the required geographic coverage in the Upstate I/M area is contained in Appendix 4.

The Inspection/Maintenance Ozone Transport Region (OTR) Flexibility Amendments were published in the Federal Register on July 25, 1996. These amendments establish the OTR low enhanced I/M performance standard under Part 51.351(h). A provision of this performance standard is that emission reduction benefits from outside the borders of the required I/M areas can be used as a “geographic bubble” to comply with the performance standard. With New York’s statewide implementation of the NYVIP program, the “Upstate” 53-county I/M area meets this performance standard. In effect, 16 counties were required to have enhanced I/M, but I/M benefits from the remaining 37 upstate counties (i.e., 53 - 16) can be used as a geographic bubble. As a result, tailpipe testing is not necessary in any of the Upstate counties. The implementation issues noted on the previous page have been resolved through statewide onboard diagnostic testing. The Upstate modeling demonstration is discussed in Section 3 of this document with an attachment included in Appendix 5.

New York’s approved high enhanced performance standard demonstration for the 9-county NYMA enhanced I/M program remains valid. (March 1996 SIP, pp. 6-9 and Appendix 10).

New York completed revisions to the DEC regulations in 6 NYCRR Parts 200 and 217 and the DMV regulations under 15 NYCRR Part 79 outlining revised State I/M requirements for both the downstate and

upstate enhanced I/M programs. These regulatory changes, included as Appendices 1 and 2, allow for the implementation of the optional NYTEST OBD and NYVIP programs.

Legal authority to require and implement I/M programs exist under Articles 3 and 19 of New York's Environmental Conservation Law (ECL), Titles II and III of New York's Vehicle and Traffic Law (VTL).

Section 3.0 of the March 1996 Enhanced Motor Vehicle I/M SIP (Downstate NYMA Enhanced I/M Performance Standard Demonstration) remains valid. The addendum below reflects changes associated with the statewide implementation of NYVIP.

Revisions to the federal I/M regulations (Part 51) were published in the Federal Register on September 18, 1995 (Volume 60, Number 180) and July 25, 1996 (Volume 61, Number 144). These changes to EPA's Part 51 outlined two new enhanced performance standards: the Alternate Low Enhanced Performance Standard, under Part 51.351(g), and the OTR Low-Enhanced Performance Standard, under 51.351(h). New York has completed the appropriate MOBILE 6 modeling demonstration considering these performance standards (Table 3) and the actual New York Vehicle Inspection Program (Tables 4 and 5).

The pertinent modeling requirement is noted under Part 51.351(h) where an I/M jurisdiction may select the OTR low-enhanced I/M performance standard in lieu of either the more stringent high enhanced or alternate low enhanced performance standards as long as the difference in emission reductions between the alternate low enhanced standard and OTR low-enhanced standard are achieved through other measures. In the upstate New York case, the 37 counties that were not required to implement any form of enhanced I/M are used as an offsetting measure. The modeling runs considered summer and winter evaluations with a 2009 compliance date.

To complete the modeling demonstration, three Mobile 6 modeling runs were completed. The first run reflects the pre-existing upstate I/M program prior to the NYVIP upstate roll-out. This program included expanded anti-tampering visual checks and a gas cap presence check that began in 1998. This modeling run establishes the Upstate I/M baselines (16 counties, 53 counties) from which the reductions of the other two runs were calculated.

The second run is EPA's Alternate Low Enhanced I/M Performance Standard, Part 51.351(g), modeled in the required 16 upstate counties (see Table 2). The difference between this run and the first run (baseline in the required 16 counties) represents the required reductions.

The third run is the actual NYVIP program in all 53 Upstate counties. The difference between this run and the baseline (in 53 counties) represents the estimated Upstate NYVIP reductions.

The modeling results are included on a CD in Appendix 5. While Modeling results are specified in the traditional gram per mile(gpm) units, the compliance demonstration must consider overall reductions expressed in tons per day (tpd), as the geographic area and vehicle miles traveled (VMT) vary between the two comparisons (16 counties vs. 53 counties).

TABLE 3 : MOBILE 6 UPSTATE PERFORMANCE STANDARDS

COMPONENT	ALTERNATE LOW ENHANCED PERFORMANCE STANDARD	OTR LOW ENHANCED PERFORMANCE STANDARD	ACTUAL NYVIP UPSTATE
Network Type	Centralized	Centralized	Decentralized Test-and-Repair
Start Date			2004
Test Frequency	Annual	Annual	Annual
Model Year Coverage	MY 1968 and newer	MY 1968 and newer	25 MYs old and newer (the 2 newest MYs are exempt)
Vehicle Type Coverage	Light Duty Vehicles & Trucks, Up to 8,500 lbs GVWR	Light Duty Vehicles & Trucks, Up to 8,500 lbs GVWR	Light Duty Vehicles & Trucks, Up to 8,500 lbs (LD) HD Gasoline (ECD Checks Only)
Emission Test Type	Idle - MYs from 1968 OBD - MY 2001 and newer	Remote Sensing - MYs 1968-1995 OBD - MYs 1996 and newer	Low Enhanced - LD from 25 MYs old to MY 1995 OBD - LD MY 1996 to 2 MYs old ECD checks on HD gasoline-powered only
Emission Standards	Part 85, Subpart W	Remote Sensing - CO at 7.5% (2x)	N/A
Emission Control Device Checks (ECD)	PCV, EGR	CAT, PCV	Same as NYMA
Evaporative System	None	None	Gas Cap Presence + OBD on MY 1996 and newer
Stringency	20%	None	20%
Waiver Rate	3%	3%	3%
Compliance Rate	96%	96%	98%
Required Geographic Coverage	Albany, Broome, Chautauqua, Erie, Dutchess, Monroe, Niagara, Oneida, Onondaga, Orange, Putnam, Rensselaer, Saratoga, Schenectady, Washington, & Warren Counties (16)	Albany, Broome, Chautauqua, Erie, Dutchess, Monroe, Niagara, Oneida, Onondaga, Orange, Putnam, Rensselaer, Saratoga, Schenectady, Washington, & Warren Counties (16)	All 53 Upstate Counties Note: 37 Upstate Counties were included as a "Geographic Bubble."

TABLE 4 : PERFORMANCE STANDARD DEMONSTRATION
NEW YORK UPSTATE I/M AREA - SUMMER 2009

SUMMER 2009 (tons per day)			
	VOC	CO	NOx
16 Required Counties Anti-Tampering Only	123.66	1350.64	188.81
16 Required Counties Alternate Low Enhanced I/M Program	109.42	1084.32	175.27
Reductions from a 16-County Alt. Low Enhanced I/M Program	14.24	266.33	13.54
53 County Anti-Tampering Only (pre-NYVIP)	196.43	2179.61	322.75
53 County NYVIP OBD (Actual)	179.30	1880.84	302.17
Reductions from 53 County NYVIP OBD	17.13	298.78	20.59

TABLE 5 : PERFORMANCE STANDARD DEMONSTRATION
NEW YORK UPSTATE I/M AREA - WINTER 2009

WINTER 2009 (tons per day)			
	VOC	CO	NOx
16 Required Counties Anti-Tampering Only	102.68	2734.82	215.22
16 Required Counties Alternate Low Enhanced I/M Program	83.35	2304.89	197.05
Reductions from a 16-County Alt. Low Enhanced I/M Program	19.33	429.93	18.17
53 County Anti-Tampering Only (pre-NYVIP)	153.36	4193.42	345.07
53 County NYVIP OBD (Actual)	132.37	3740.32	318.57
Reductions from 53 County NYVIP OBD	20.99	453.10	26.51

Section 4.0 of the March 1996 Enhanced Motor Vehicle I/M SIP is replaced in full by the following revision.

A. I/M Network Type

New York operates a statewide decentralized test-and-repair network to complete I/M inspections. This network design applies to both NYVIP and NYTEST. Test-and-repair stations are able to inspect vehicles for which they are authorized, and if necessary, the same station can also repair and reinspect failed vehicles. Participating stations are required to obtain a Department of Motor Vehicle's inspection license. Licensed stations must obtain the applicable inspection testing equipment, install an electronic connection to the data manager (i.e., dedicated phone line), and comply with all administrative requirements. Presently, there are approximately 3,630 NYVIP/NYTEST stations in the NYMA and 6,060 NYVIP stations in the 53 county I/M upstate area.

Adequate legal authority for the decentralized network exists within New York's Vehicle and Traffic Law (VTL) and Environmental Conservation Law (ECL). A summary of New York's I/M legal authority is as follows:

Environmental Conservation Law (ECL) - Section 3-0301 of the Environmental Conservation Law provides the general overall authority to regulate air pollution including the specific control of motor vehicle emissions. It also provides authority to enter into contracts to complete those functions, powers, and duties of the Department of Environmental Conservation.

ECL Article 19 pertains specifically to air pollution control. Section 19-0103 states the State's policy to protect our air resources. Sections 19-0301 and 19-0303 provide the authority to control air pollution and sources of air pollution, including motor vehicles, and to promulgate regulations for these purposes. These sections also authorize the regulation of air pollution on a selective geographic basis. Section 19-0305 provides the ability to enforce promulgated rules and regulations including the ability to stop and inspect any motor vehicle to determine compliance with applicable regulations.

ECL Article 71 provides the penalty structure for violations of Article 19. The Commissioner of the Department of Environmental Conservation is also authorized under this article to issue summary abatement orders for particular violations.

Vehicle and Traffic Law (VTL) - Article 5 of the VTL provides the authority for the periodic inspection of motor vehicles. Section 215 of the VTL provides general authority for the Commissioner of Motor Vehicles to promulgate rules and regulations to exercise the powers of New York's Department of Motor Vehicles (DMV). Section 301 provides that the Commissioner must require at least a biennial inspection frequency. Section 302 provides the DMV the authority to promulgate rules and regulations for the administration and enforcement of I/M programs.

Section 303 authorizes the DMV Commissioner to operate, enter into a contract to operate, and license

official emissions testing inspection stations. The Section also authorizes the DMV inspection of official emissions testing stations. The DMV Commissioner is authorized to suspend or revoke the license of an official inspection station for failure to conduct conforming inspections, the improper issuance of certificates of inspection, or violations of VTL Article 5.

VTL's Section 305 establishes the maximum state administration fee at \$4 for a certificate representing a successfully completed emissions inspection under an annual program frequency. Such fees are to be deposited into New York's Clean Air Fund - Mobile Source Account. Section 306 requires that no vehicle subject to inspection be operated on public highways within this state without an official inspection certificate. Also, no vehicle subject to inspection will be registered by the DMV unless it possesses a valid Certificate of Inspection.

B. Decentralized I/M Credit

In 1996, the DEC completed an investigation of the NYMA idle test I/M program to determine the relative effectiveness of the proposed NYTEST decentralized program compared to EPA's model centralized test-only program. The draft report, "New York City I/M : Program Credit Determination" was included within New York's March 1996 Enhanced I/M SIP. Subsequently, New York's 15 Percent and Reasonable Rate of Progress Plan (September 4, 1997) claimed the relative credit for the NYTEST decentralized network was:

- » 88 percent as effective for HC emission reductions;
- » 84 percent as effective for CO emission reductions; and
- » 86 percent as effective for NOx emission reductions.

EPA's final approval of the NYTEST I/M program was noticed in the Federal Register on May 7, 2001.

The Upstate I/M Mobile Modeling runs (Section 3) include the same relative test-and-repair credit for the NYVIP program as in the 1997 ROP SIP. New York believes the relative credit claimed is conservative as electronic safeguards have been built into the NYVIP test sequence to prevent fraud, and additional electronic triggers has been incorporated into the NYVIP enforcement process. These undertakings have evolved since the NYTEST program. New York has also identified a small, but growing, percentage of licensed inspection stations in the Upstate I/M area that do not complete emission-related repairs. In practice, these stations are functioning as decentralized test-only stations. This SIP revision does not claim any additional test-and-repair credit above the previously approved NYTEST program, but New York reserves the opportunity to re-visit the test-and-repair credit discount for NYVIP at a future date.

C. Performance Evaluation

New York has provided the program evaluations required under Part 51.353(c) for the downstate NYTEST program. New York will continue to complete these evaluations for the new NYVIP program, as guidelines for OBD program evaluations are developed between interested states and EPA.

Section 5 of the March 1996 Enhanced Motor Vehicle I/M SIP pertaining to the NYTEST Program remains valid. The addendum below reflects changes associated with the statewide implementation of NYVIP.

The revised I/M program provides sufficient resources and personnel to perform all necessary program functions including: planning, administration, enforcement, quality assurance, data analysis, program evaluation, and reporting. The revenue source for the State segment of the I/M program is provided through the sale of emission inspection stickers. This fee is deposited into the Mobile Source Account of New York's Clean Air Fund. Through the established Mobile Source Account, New York State meets the dedicated I/M funding requirement under Section 51.354(a).

SGS TESTCOM, as the Contractor for the NYVIP program and data manager for the pre-existing NYTEST program, receives separate compensation through "per call" data transmission fees associated with each inspection. The per call fees are separate from, and do not impact, the Mobile Source Account.

6.0 TEST FREQUENCY AND CONVENIENCE (§51.355)

Section 6.0 of the March 1996 Enhanced Motor Vehicle I/M SIP is replaced in full by the following revision.

Both the NYVIP and NYTEST programs require annual safety/emissions inspections. Presently in the NYMA, there are approximately 3,630 test-and-repair inspection stations utilizing both the NYTEST and NYVIP equipment. In the upstate 53 county area, there are currently approximately 6,060 test-and-repair stations. As of July 15, 2005, there are 9,690 licensed emissions inspection facilities statewide transmitting inspection data through the data manager.

One of the more compelling reasons for the development of a statewide test-and-repair network was the perception by the public that centralized test-only networks are inconvenient. The motoring public generally accepts the existing decentralized test-and-repair system as being convenient and able to meet their personal scheduling needs. Most public inspection stations are open six days a week and many are available on Sundays. DMV currently receives about approximately 15,000-20,000 electronic inspection transactions daily. The existing decentralized test-and-repair network allows motorists to drop off their vehicles, get their vehicles inspected, and repaired (if needed) in one trip. Geographic coverage for all areas of New York State are adequate.

The financial impact of the statewide implementation of NYVIP has been minimal due to the relatively low cost of inspection equipment achieved through competitive procurement. The Upstate I/M program has been perceived as a relatively simple enhancement to New York's low enhanced emissions/safety inspection. To avoid a shortage of test facilities at start-up, the mandatory upstate and downstate NYVIP start dates were intentionally linked to the delivery of NYVIP equipment to participating stations. Very few downstate stations withdrew their inspection license because of the additional NYVIP requirements. The DMV has determined that sufficient stations have enrolled to guarantee statewide convenience to motorists.

New York Vehicle & Traffic Law (V&TL), Section 301, requires that every motor vehicle registered in this state be inspected each year.

Every motor vehicle must be inspected and bear a certificate of inspection before an original registration, re-registration, or registration renewal may be issued. V&TL, Section 415, further requires that every motor vehicle sold or transferred by a registered dealer be inspected and bear a valid certificate or certificates of inspection prior to delivery to the purchaser or transferee. As such, licensed dealers cannot sell a vehicle without an inspection certificate.

The existing registration-based enforcement mechanism in place in NYMA (to insure motorist compliance with the inspection requirements) will be expanded to the Upstate 53-county I/M area after an adequate record history has been established.

7.0 VEHICLE COVERAGE (§51.356)

Section 7.0 of the March 1996 Enhanced Motor Vehicle I/M SIP is replaced in full by the following revision.

The New York State Department of Motor Vehicles has utilized electronic registration files to enforce motorist compliance within the existing NYMA enhanced I/M area. The same method will be employed for the Upstate 53 county I/M area as well.

New York's motor vehicle registration is valid for two years, while emission/safety inspections are required annually. Registration renewal (occurs every two years) will be denied to any vehicle, which has not passed an emission inspection or received a waiver within the previous 12 months, as recorded on the registration file. In addition, a passing emissions inspection is required before new vehicle registrations are processed (this applies to vehicles sold by registered auto dealers that are more than two years old). Vehicles that comply by having the vehicle inspected or by returning plates will be clearly marked.

Motorists seeking registration transactions of an administrative nature (duplicates, amendments, etc.) will also be checked for yearly inspection compliance or suspensions every time a transaction is requested. Transactions will be denied if appropriate.

Section 301 of New York's Vehicle and Traffic Law authorizes the Commissioner of Motor Vehicles to designate the appropriate segment of the vehicle population for enhanced emissions inspections. DMV regulation under Part 79 (Appendix 2) exempts the following categories of vehicles from enhanced emissions testing requirements:

1. Diesel and electric powered vehicles.
2. Vehicles 26 Model Years old and older (i.e., with each new MY, an older MY is "rolled" into the exemption).
3. New vehicle exemption. An emissions inspection is not required for new vehicles until it is two model years old.
4. Certain "Special Class" vehicles, including the following DMV registration classes: Historical, Special Purpose Commercial, All Terrain Vehicles, Motorcycle, Class A Limited Use Motorcycle, Class B Limited Use Motorcycle, Class C Limited Use Motorcycle, Farm, Dealer, Motorcycle Dealer, Transporter, All Terrain Dealer, Light Trailer, Semi Trailer, Trailer, House Trailer, Boat, and Snowmobile, and certain vehicles classified by DMV as "Custom" or "Homemade" prior to January 1997.

Although descriptions of certain exempt vehicles (i.e., snowmobiles, motorcycles, boats) are self explanatory, several are not. The descriptions of these exempt classes are as follows:

"Historical" registrations are vehicles which are owned and operated as an exhibition piece or collector's item. They are used for participation in club activities, exhibits, tours, parades and occasional transportation, but not for general daily transportation. These vehicles were manufactured more than twenty-five years ago, or are a special model year or type of vehicle having unique characteristics, and

which are determined by the Commissioner of Motor Vehicles to be of historical, classic, or exhibition value. There are about 4,558 such vehicles registered in the NYMA and 4,049 upstate.

"*Special Purpose Commercial Vehicles*" are vehicles such as road rollers, tractor cranes, truck canes, power shovels, road building machines, snow plows (permanently attached), road sweepers, sand spreaders, well drillers, well servicing rigs, feed processing machines, mobile car crushers, earth movers, trucks with small wheels used in factories, warehouse, or railroad stations, and agricultural spreader and sprayers. These vehicles are used primarily in building, construction, or specialty jobs, but must occasionally be taken on the road. Other exemptions overlap this exemption as well (i.e., diesels). There are approximately 5,063 in the NYMA and 8,634 upstate.

"*Farm*" vehicles are farming implements and are not primarily used on the road. Farm vehicles may be driven on the road or the side of the road so that the farmer may travel from field to field or to designated locations required for maintenance of their farm. A route map is filed with this type of registration and enforcement personnel can ask for a route map if the farm vehicle is stopped. There are about 484 such vehicles in the NYMA and 5,901 upstate.

"*Transporters*" are temporary registrations used for vehicle delivery. They are meant for use by dealers, auctioneers, and repair shops for the delivery of vehicles.

"*Custom Built*" or "*Homemade*" vehicles require approval and receive a special exemption. Custom built and homemade vehicles were always required to meet specific safety requirements prior to being registered in the State. Prior to January 1997, these vehicles were not required to meet all emissions equipment and testing requirements. There are about 588 such vehicles in the NYMA and 997 upstate. After January 1997, all home made or custom built vehicles were required to meet the emission requirements for the designated year that the vehicle is being built. Kit type cars will be designated by the year of the engine and are required to have an emissions test based upon that engine year.

Some vehicles are presently not included within DMV's registration files or require some type of administrative change. The DMV continuously works with other government agencies to develop a current inventory of federal fleet vehicles (US Post Office, federal agencies, etc.) and other currently unregistered vehicles (police) in the NYMA. New York has identified these fleets and their locations. DMV has assigned inspection expiration dates to the fleet vehicles and will enforce the inspection requirement by file checks. Enforcement through site visits to check on vehicles and the inspection facility (if licensed) will also be incorporated. These fleets may inspect their own vehicles if they become licensed inspection facilities and purchase the specified equipment. In the Upstate area, federal and unregistered fleets have also been identified and required to have the appropriate emissions test along with a safety inspection in a similar manner as in the NYMA.

Municipal and State vehicles also require changes to the existing registration database. These vehicles presently have license plates and registration records; however, their registrations do not expire. NYS identifies these vehicles through quarterly sticker surveys, and the out of compliance agency is contacted by DMV. For convenience and administrative reasons, some larger fleets are given permanent fleet registrations. Although these fleet vehicles carry permanent registration stickers, they expire in October of each year (annual registration) and electronically renew through DMV's central registration processing units. Checks on the DMV inspection file will be done prior to registration renewal, and those found not having a passing emissions inspection within the past year would be denied. Upstate permanent fleets will receive the appropriate emissions inspection along with their annual safety inspection.

In addition to registration denial, the I/M program is also sticker enforced through on-road enforcement.

Some vehicles are registered annually. These vehicles, which include taxis, liveries, rental vehicles, etc. will be registration enforced annually on renewal. Those vehicles found not having a valid inspection within the year will be denied registration. Registrations for taxi and livery vehicles in New York City have staggered expirations throughout the year.

As the result of a federal consent decree dated September 6, 1977 (as modified by stipulation), the New York City Taxi and Limousine Commission (TLC) is required to complete I/M inspections three times a year for their yellow medallion taxicabs. This requirement is also contained within the March 1996 enhanced I/M SIP (p. 20). These vehicles are subject to registration-based enforcement. The first of these inspections will be enforced by the DMV, while TLC will enforce the second and third. The TLC has demonstrated an equivalent emissions testing program that meets New York's OBD specifications. DMV will receive a single inspection for each applicable TLC vehicle annually, while DEC receives inspection data from all TLC emissions inspections.

Based on an April 2005 DMV registration query, vehicle count summaries for the NYMA and Upstate I/M programs are included as Tables 6A and 6B, respectively. Table 6A estimates the number of NYMA vehicles that would be eligible for either a NYTEST (idle or transient "tailpipe" test) or a NYVIP OBD inspection. Table 6B estimates the number of Upstate vehicles that would be eligible for the NYVIP OBD inspection. Exemptions due to vehicle age (old and new) are highlighted. Additional vehicles, not included within Tables 6A or 6B, are also required to receive ECD visual inspections.

More comprehensive breakdowns of vehicle counts by county, model year, fuel type, vehicle class (commercial or passenger), and weight class are included in Appendix 6.

TABLE 6A : NYMA ENHANCED I/M VEHICLE DISTRIBUTION
(NYTEST / NYVIP)

Model YR	Bronx	Kings	Nassau	New York	Queens	Richmond	Rockland	Suffolk	Westchester	Total	% of Total
2004 + Newer	20,569	40,572	142,524	35,296	90,808	39,348	31,248	146,494	97,321	644,180	13.87%
2003	14,801	28,394	104,702	23,073	53,099	27,717	22,948	109,412	69,312	453,458	9.76%
2002	14,941	26,286	89,178	20,001	49,043	23,764	20,357	99,215	60,418	403,203	8.68%
2001	14,186	24,957	67,730	16,904	47,699	17,025	15,982	83,010	47,850	335,343	7.22%
2000	16,392	29,694	68,277	16,721	54,216	18,188	15,754	84,919	46,500	350,661	7.55%
1999	15,391	27,699	59,598	15,601	48,530	15,287	13,456	74,441	40,114	310,117	6.68%
1998	16,211	27,285	53,951	14,580	47,242	14,211	12,050	65,935	37,041	288,506	6.21%
1997	16,308	26,423	48,944	13,277	45,561	13,300	10,814	60,507	32,954	268,088	5.77%
1996	16,193	23,758	41,102	12,021	40,908	11,345	9,267	51,460	27,872	233,926	5.04%
1995	17,348	25,039	44,772	13,010	43,451	11,948	9,619	56,853	30,290	252,330	5.43%
1994	13,392	19,704	35,512	9,403	33,876	9,736	7,567	45,513	23,898	198,601	4.27%
1993	12,523	18,546	32,187	8,759	30,889	8,753	6,689	40,545	20,605	179,496	3.86%
1992	10,326	15,615	26,024	7,039	25,584	6,906	5,056	31,450	16,835	144,835	3.12%
1991	8,469	11,843	22,009	5,748	20,734	5,443	4,125	26,736	14,102	119,209	2.57%
1990	7,833	11,498	20,377	5,388	19,169	5,071	3,806	25,241	12,938	111,321	2.40%
1989	5,414	8,653	16,765	4,006	14,652	4,224	2,794	21,797	10,345	88,650	1.91%
1988	4,008	6,292	12,896	3,192	10,811	3,097	2,054	17,250	7,908	67,508	1.45%
1987	3,100	4,848	10,370	2,652	8,305	2,326	1,534	13,616	6,059	52,810	1.14%
1986	1,906	3,131	7,006	1,696	5,337	1,639	1,032	9,789	4,152	35,688	0.77%
1985	1,253	2,022	4,621	1,325	3,595	1,018	638	6,097	2,689	23,258	0.50%
1984	766	1,279	2,909	810	2,276	653	411	4,110	1,737	14,951	0.32%
1983	438	771	1,585	453	1,297	328	230	2,270	937	8,309	0.18%
1982	256	454	995	323	771	230	160	1,424	592	5,205	0.11%
1981	244	364	919	246	628	189	131	1,205	504	4,430	0.10%
1980	208	346	928	246	617	205	128	1,167	530	4,375	0.09%
1979-1965	1,646	2,939	10,045	2,678	5,055	2,096	1,541	15,482	5,933	47,415	1.02%
Total	234,122	388,412	925,926	234,448	704,153	244,047	199,391	1,095,938	619,436	4,645,873	100.00%
% of Total	5.04%	8.36%	19.93%	5.05%	15.16%	5.25%	4.29%	23.59%	13.33%	100.00%	

TABLE 6B : UPSTATE ENHANCED I/M VEHICLE DISTRIBUTION
(NYVIP)

COUNTY	2004 + Newer	2003	2002	2001	2000	1999	1998	1997	1996	Total	% of Total
Albany	23,047	17,857	16,800	14,765	16,160	14,592	12,845	12,062	9,949	138,077	4.00%
Allegany	2,150	1,849	2,077	1,989	2,421	2,240	2,178	2,214	1,947	19,065	0.55%
Broome	10,366	8,495	9,251	9,476	11,461	10,632	10,277	9,981	8,536	88,475	2.56%
Cattaraugus	4,832	4,042	3,965	3,709	4,564	3,954	3,771	3,610	3,184	35,631	1.03%
Cayuga	5,573	4,142	3,878	3,620	4,063	3,797	3,640	3,400	3,049	35,162	1.02%
Chautauqua	7,655	6,302	6,391	6,226	7,613	6,571	6,693	5,995	5,143	58,589	1.70%
Chemung	4,291	3,605	4,130	4,687	5,729	4,852	4,597	4,100	3,405	39,396	1.14%
Chenango	2,562	2,247	2,549	2,482	3,133	2,934	2,820	2,649	2,225	23,601	0.68%
Clinton	6,749	4,769	4,166	4,054	4,258	3,741	3,638	3,445	3,120	37,940	1.10%
Columbia	4,753	3,770	3,551	3,283	3,563	3,391	3,195	3,023	2,628	31,157	0.90%
Cortland	2,438	2,064	2,179	2,212	2,665	2,345	2,319	2,180	1,862	20,264	0.59%
Delaware	3,519	2,738	3,022	2,830	3,097	2,729	2,628	2,448	1,995	25,006	0.72%
Dutchess	24,614	19,018	18,337	17,146	17,987	15,730	14,755	13,652	11,084	152,323	4.41%
Erie	90,405	60,435	54,645	43,891	47,199	42,294	39,660	36,038	31,027	445,594	12.90%
Essex	3,427	2,569	2,361	2,043	2,194	1,977	1,841	1,749	1,392	19,553	0.57%
Franklin	3,248	2,640	2,454	2,178	2,563	2,420	2,332	2,277	1,919	22,031	0.64%
Fulton	3,630	2,764	2,788	2,740	3,252	2,767	2,699	2,478	2,242	25,360	0.73%
Genesee	3,854	3,094	3,123	2,963	3,509	3,315	3,324	2,935	2,481	28,598	0.83%
Greene	3,977	3,076	2,735	2,691	2,880	2,772	2,543	2,353	2,040	25,067	0.73%
Hamilton	614	433	444	391	388	357	267	285	244	3,423	0.10%
Herkimer	4,075	3,105	3,133	2,872	3,465	3,183	2,993	2,849	2,543	28,218	0.82%
Jefferson	8,137	6,243	6,245	5,296	6,105	5,180	4,986	4,420	3,692	50,304	1.46%
Lewis	1,750	1,416	1,416	1,293	1,546	1,342	1,305	1,217	1,054	12,339	0.36%
Livingston	3,783	3,042	3,258	3,144	3,825	3,478	3,388	3,152	2,695	29,765	0.86%
Madison	4,631	3,639	3,659	3,237	4,014	3,717	3,326	3,144	2,676	32,043	0.93%
Monroe	58,029	41,801	41,445	37,542	42,868	38,456	35,865	33,233	28,251	357,490	10.35%
Montgomery	3,507	2,691	2,711	2,493	2,922	2,595	2,397	2,155	2,006	23,477	0.68%
Niagara	17,154	13,019	11,737	9,508	10,921	10,098	9,469	8,932	7,981	98,819	2.86%
Oneida	16,314	12,322	11,803	11,239	13,611	12,335	11,276	10,563	8,986	108,449	3.14%
Onondaga	40,976	30,977	28,569	24,164	26,635	23,535	21,078	18,756	15,353	230,043	6.66%
Ontario	7,864	5,723	5,737	5,469	6,628	5,959	5,535	5,045	4,350	52,310	1.51%
Orange	31,440	23,381	22,155	19,652	20,756	17,675	16,412	15,091	12,786	179,348	5.19%
Orleans	2,257	1,743	1,825	1,682	2,084	1,911	1,961	1,930	1,733	17,126	0.50%

TABLE 6B : UPSTATE ENHANCED I/M VEHICLE DISTRIBUTION (CONTINUED)
(NYVIP)

COUNTY	2004 + Newer	2003	2002	2001	2000	1999	1998	1997	1996	Total	% of Total
Oswego	8,048	6,147	6,109	5,636	6,739	5,983	5,866	5,527	4,694	54,749	1.58%
Otsego	3,877	3,131	3,313	3,298	3,573	3,306	3,152	2,732	2,463	28,845	0.83%
Putnam	11,181	8,521	7,634	6,636	6,816	5,908	5,248	4,786	3,842	60,572	1.75%
Rensselaer	11,493	8,948	8,542	7,579	8,472	7,688	7,100	6,511	5,859	72,192	2.09%
Saratoga	6,652	5,497	5,472	4,881	6,176	5,354	5,143	4,886	4,075	48,136	1.39%
Schenectady	19,996	15,064	14,289	12,987	13,933	12,178	10,791	9,626	7,686	116,550	3.37%
Schoharie	12,139	9,553	8,950	8,381	9,174	8,188	7,444	6,978	6,067	76,874	2.22%
Schuyler	2,041	1,588	1,633	1,694	2,011	1,866	1,684	1,487	1,327	15,331	0.44%
Seneca	874	717	729	883	1,060	983	972	960	886	8,064	0.23%
St Lawrence	5,005	4,070	4,511	4,687	5,973	5,300	5,158	5,013	4,483	44,200	1.28%
Steuben	1,794	1,581	1,538	1,655	1,899	1,686	1,698	1,637	1,444	14,932	0.43%
Sullivan	6,435	4,577	4,441	3,909	4,109	3,696	3,493	3,513	3,006	37,179	1.08%
Tioga	2,145	1,985	2,310	2,467	3,061	2,849	2,841	2,877	2,413	22,948	0.66%
Tompkins	4,565	3,753	3,922	4,266	4,858	4,424	4,325	3,927	3,235	37,275	1.08%
Ulster	13,043	9,908	9,771	9,383	10,214	9,546	8,978	8,670	7,475	86,988	2.52%
Warren	6,167	4,575	4,224	3,849	4,167	3,624	3,466	3,112	2,597	35,781	1.04%
Washington	4,167	3,082	3,033	3,030	3,445	3,075	3,025	2,939	2,569	28,365	0.82%
Wayne	5,991	4,748	4,953	4,921	5,821	5,213	5,007	4,591	4,192	45,437	1.32%
Wyoming	2,573	1,999	2,092	1,920	2,394	2,104	2,170	2,047	1,649	18,948	0.55%
Yates	1,291	961	1,082	1,076	1,342	1,249	1,218	1,105	1,079	10,403	0.30%
Out of State	55,343	12,995	8,533	6,519	5,072	3,197	2,561	1,644	1,328	97,192	2.81%
Unknown	0	0	2	0	0	3	3	1	0	9	0.00%
Total	596,441	418,411	399,622	360,624	404,388	360,294	337,356	311,930	265,947	3,455,013	100.00%
% of Total	17.26%	12.11%	11.57%	10.44%	11.70%	10.43%	9.76%	9.03%	7.70%	100.00%	

Section 8.0 of the March 1996 Enhanced Motor Vehicle I/M SIP pertaining to the NYTEST Program remains valid. The addendum below reflects changes associated with the statewide implementation of NYVIP.

The most current DEC and DMV emission testing requirements have been included within this SIP revision. A brief description of each document and their location within this revision are as follows:

- » DEC regulation (effective October 30, 2002), 6 NYCRR Part 217-1, "Motor Vehicle Enhanced Inspection and Maintenance Program Requirements," includes NYTEST tailpipe standards (NYMA only) and statewide on-board diagnostic testing (NYVIP, Optional NYTEST program) in Appendix 1.
- » DMV regulation (revised May 4, 2005), 15 NYCRR Part 79, "Motor Vehicle Inspection Requirements" in Appendix 2.
- » DMV's "Enhanced Emissions Inspection Procedure - Phase 2" (November 2002), also known as VS-28, outlines the step-by-step process by which a licensed emissions inspector completes the downstate NYTEST inspection included in Appendix 7. VS-28 has been revised since the 1996 Enhanced I/M SIP.
- » The Draft NYVIP Technical Specifications were included as part of New York's Request for Proposals (RFP) in 2002. The NYVIP specifications were subsequently modified to reflect the development of New York's anti-fraud checks, finalization of downloadable "small files" (in cases to incorporate EPA's OBD guidance), and to incorporate Contractor based inputs. To ensure the confidentiality of the anti-fraud checks and to protect certain aspects of the NYVIP specifications deemed proprietary in nature, a summary of the final specifications has been prepared for this SIP revision. NYTEST OBD specifications were also developed for the now obsolete Optional OBD program. These documents are included in Appendix 8.

New York's NYTEST Optional OBD and NYVIP OBD inspection programs were developed according to EPA's test procedures and guidance, including EPA's "Performing Onboard Diagnostic system Checks as Part of a Vehicle Inspection Maintenance Program," the Equipment and Tool Institute's, "OBD I/M Testing Flowchart," 40CFR Parts 51 and 85, and SAE 1979 (E/E Diagnostic Test Modes).

As with the existing NYTEST program, any NYVIP inspection performed after the initial test is considered a reinspection. The DMV inspection file records initial inspection as such, and test equipment will communicate to the station/inspector when a re-inspection is required. After repairs, vehicles are re-tested for any portion of the inspection that failed the original or previous test, to determine if repairs were effective (safety or emissions). To the extent that a repair could result in a failure of another portion of the test, that portion will also be retested.

DMV regulation §79.20(d) requires that an entire emissions inspection (including ECD checks) be performed when a vehicle previously failed for emissions. The only emissions exception is the NYTEST gas cap pressure test (i.e., only the gas cap would be re-inspected).

As an additional security measure within the NYMA I/M area, only one emission inspection unit (NYTEST or NYVIP) can be used to complete the mandatory inspection. For all OBD applicable vehicles, the NYVIP unit must be used. As a consequence, gas cap pressure testing can not be completed on OBD II vehicles, as the pressure testing hardware is linked only to the NYTEST platform. NYVIP requires the same visual emission control device inspections as does NYTEST.

9.0 TEST EQUIPMENT (§51.358)

Section 9.0 of the March 1996 Enhanced Motor Vehicle I/M SIP pertaining to the NYTEST Program remains valid. The addendum below reflects changes associated with the statewide implementation of NYVIP.

A summary of the NYVIP on-board diagnostic inspection is included in Appendix 8.

The NYVIP inspection equipment has been automated to minimize the potential for intentional fraud, human error, tampering, and/or abuse. The equipment design provides self-diagnostic checks for the OBD scan tool, bar code scanner, presence of a floppy disk (back-up data storage), and the telephone modem at start-up. A Contractor run Help Desk has been established to provide assistance in cases where equipment issues have been identified.

The NYVIP equipment provides a computerized test report, Vehicle Inspection Receipt (VIR), to comply with the notification requirements of Section 51.358(a)(2). Examples of the VIR for both passing and failing vehicles are provided in Appendix 8.

Two versions of NYVIP application software (Upstate, NYMA) were required, and both were subjected to separate acceptance testing by DEC and DMV for administrative, technical, and functional compliance with specifications. The initial Upstate NYVIP equipment was also subjected to in-station alpha and beta testing in DMV selected locations before the actual Upstate implementation. DEC's NYVIP OBD Test Script is included in Appendix 9.

The NYVIP contract provides for the annual review of software and, if necessary, modifications to improve performance or to effect requirements previously not currently considered.

Section 10.0 of the March 1996 Enhanced Motor Vehicle I/M SIP pertaining to the NYTEST Program remains valid. The addendum below reflects changes associated with the statewide implementation of NYVIP.

Quality assurance is critical to the successful implementation and operation of I/M programs. The increased flexibility afforded to states by revisions to the federal I/M regulations does not diminish the need for strong quality assurance. Decentralized and test-and repair designs inherently demand increased scrutiny and quality assurance resources as the number of inspection locations are relatively larger when compared to centralized testing. Quality control and quality evaluation are complementary components of quality assurance. Quality control is the standardization of procedures and record keeping to produce a consistent process with the necessary accuracy to accomplish the required task. Quality evaluation is the collection and analysis of data from the system and equipment to assure statistical control and accuracy.

Examples of quality control activities within the NYVIP program are:

- » standardization and improvement of equipment, computer software, and procedures for testing;
- » administrative audits of inspection records;
- » inspector training; and
- » auditor training.

Examples of quality evaluation activities include:

- » data analysis and tracking of system performance parameters;
- » testing equipment and software functionality/accuracy by “challenge” audits using known samples or uploaded input data (i.e., simulated data);
- » analysis of audit results;
- » anti-fraud measures via analysis of real-time data and reported OBD inspection results (i.e., queries); and
- » documentation of system quality and performance in quality assessment reports.

Although the inspection stations and the NYVIP Contractor undertake a portion of these activities, DEC and DMV insure the veracity, effectiveness, and completeness of quality assurance. Independent oversight is absolutely essential to protect against fraud, to insure against error and incompetence, and to assure system accuracy, documentation, and integrity.

Section 51.363 requires quality assurance programs to insure test accuracy; to require facilities, inspectors, and test equipment to function in accordance with all required procedures and specifications; to require complete and accurate documentation; to monitor for statistically aberrant data and to identify and correct the cause of aberrations; and to actively seek out and expunge fraud, incompetence, and mismanagement. Further, the regulation prescribes that states develop quality assurance programs, obtain legal authority to implement quality assurance programs, and provide written procedures for quality assurance auditors.

DEC and DMV have completed acceptance testing of the NYVIP software prior to inspection stations conducting emissions testing on public and private sector vehicles. New York has secured adequate

funding for a QA program; has hired and trained QA personnel; has purchased specialized equipment for “challenge” auditing of NYVIP equipment; and (with the NYVIP Contractor) has structured the inspection hardware and software architecture. A NYVIP database management system, that includes the ability perform queries, has been developed for quality assurance monitoring and assessment of the I/M program. These queries allow for the investigation of specific vehicles, inspectors, and/or stations. Quality evaluation will be accomplished by specialized audit teams and a data analysis groups.

New York’s quality assurance program includes the following design parameters:

CERTIFICATION OF NYVIP EQUIPMENT: The certification of the NYVIP I/M program is viewed as a continuing process, although the initial effort was required to allow for the sale and installation of equipment. Certification tasks include: engineering design review of the NYVIP application for conformance to NY’s OBD specifications; observance and evaluation of system testing by the Contractor; development, review, and modification of acceptance test plans (ATPs) used by DEC and DMV to independently evaluate emission test system hardware and software performance; continuing certification evaluation from quality control and quality evaluation data, and special investigations. Issues that fail to meet continuing certification standards will require modification or replacement to meet such standards.

AUDITS: The NYS DMV conducts overt, covert, and data auditing of the licensed inspection stations. The existing DMV audit procedures are included in Appendix 10. Detailed field audits are completed by Automotive Facility Inspectors (AFIs). AFIs are experienced automotive technicians, schooled technicians, or automotive trainers. Each AFI receives formal training in each of the required categories under §51.363(d). In addition to audit staff at their Albany Headquarters, DMV has six regional offices across New York State.

In the downstate NYMA area, DMV will complete 1 covert and 2 program OBD audits annually at each licensed station. In the 53 county Upstate area, DMV will complete 1 program audit each year and 1 covert audit every 5 years for each facility. Data from the emissions inspections will be gathered electronically for reporting purposes during these audits.

Overt Audits: Overt audits will include the observation and surveillance of inspections and inspectors in the stations for the quality of inspections and the adherence to the inspection procedure. These audits are conducted with the knowledge, and perhaps even assistance, of the inspection station. Audit elements include assessment of compliance with standardized procedures, equipment maintenance, document security, and verification of equipment performance. The number of overt equipment audits per year will depend upon the number of I/M facilities in the system and audit productivity. Audit productivity is dependent upon the number of staff per audit team, the final equipment and procedure specifications, the final audit protocols applicable to the specified equipment and procedures, the equipment available for audit procedures, and the geographic dispersion of inspection facilities. Experimentation and statistical analysis of data from the operational I/M system will be required to assess, and if necessary, adjust the equipment audit frequency.

Covert & Investigatory Audits: Investigatory audits include but are not limited to covert audits. Covert audits using special vehicles and/or other specialized equipment are required by 40 CFR§51.363 and are conducted to discover and correct fraud, malpractice, or other abnormalities. DMV using undercover vehicles and personnel will do covert inspections to assure that vehicles that should fail are being identified. Currently, the DMV Division of Vehicle Safety operates 42 vehicles for the use in covert audits statewide. The Division also obtains vehicles through the cooperation of local police who make available impounded vehicles. DMV will utilize a variety of vehicles that will be representative of the New York fleet. Special investigatory audits are required by §51.363 when overt audit analysis or consumer complaints indicate an abnormality. Special investigatory audits will also be triggered by anti-

fraud and abnormality analyses of inspector or inspection facility data, possibly through data queries or consumer complaints.

DATA ANALYSIS: I/M programs are directed by Part 51 and guidance documents to meet numerous data analysis and reporting requirements. DEC and DMV, with assistance from the NYVIP Contractor, will undertake data analysis and reporting efforts. Special data investigations will be required to insure that systematic and selective test parameter/emission interactions are discovered and remedied. For example, a specific vehicle type may be more sensitive to a particular type of OBD II failure (i.e., readiness). Data analysis will be responsible for identifying the effectiveness of corrective measures. Data analysis must also actively seek to identify emission patterns necessary to identify fraud, equipment malfunction, mismanagement, and other abnormalities.

New York will provide, through a combination of agency staffing and private contractor(s), sufficient quality assurance activities to operate a credible program capable of being evaluated.

New York has developed a computerized enforcement triggering system to identify the stations or inspectors who are improperly passing or failing vehicles. The system can review records daily. For example, it is possible to evaluate the data signature for each individual inspection of a completed inspection history by comparing powertrain control module IDs, PID Counts, supported/unsupported monitors and/or the electronic vehicle identification number (PCM VIN). Patterns of suspect testing deemed outside the norm can be made for either inspectors or inspection stations. These patterns would include: too high of a failure rate; too low of a failure rate, inspections occurring in rapid succession; inspections occurring at unusual times; or frequent use of manual keyboard entry (instead of using the preferred barcodes).

VEHICLE INSPECTION RECEIPT: In accordance with the technical specifications, New York has standardized a Vehicle Inspection Receipt (VIR) that informs the motorist whether the inspected vehicle has passed or failed the required inspection. This document is used primarily as a customer service document, as the inspection data is electronically transferred to DMV/DEC. The VIR is generated from the approved inspection equipment (NYTEST, NYVIP).

The VIR includes a description of the vehicle and a summary of the inspection results. Should the vehicle fail the inspection, the VIR displays the details of the failure. If applicable, the VIR also includes recall, waiver, and 10-day extension information.

WRITTEN PROCEDURES / SOFTWARE DESIGN: The Department of Motor Vehicles has developed written procedures for the stations related to the actual emissions inspection, waivers, anti-tampering inspection, safety inspection, and equipment maintenance. In accordance with state guidelines, inspection stations are responsible for setting up a system of security related to vehicle inspection reports, waiver certificates, and inspection stickers. Safeguards have been incorporated into the inspection software to assure that the DMV registration file is accessed at the start of the inspection and that all inspection data is received to track and enforce the vehicle through the registration system.

REQUIRED INSPECTOR TRAINING: The NYVIP equipment and the Contractor's website includes computer-based training for inspectors and inspection station owners. The training course contains seven modules including a brief description of the NYVIP Program, the basics of OBD II, how to perform inspections, recent revisions to Part 79 regarding the OBD inspection, care and use of NYVIP test equipment, a discussion of reports, and customer notification procedures. Inspectors must pass an on-line NYVIP exam before they are allowed to complete OBD inspections.

STICKER DESIGN AND AUDITING: As with the existing NYMA enhanced I/M area, DMV will complete a computer matched registration-based enforcement program, parking lot sticker audits, and inspection sticker compliance survey program for the statewide NYVIP program. NYVIP stickers are purchased from DMV. The padded stickers are sequentially numbered with security features included within the design. DMV can account for every sticker ordered and issued to stations. Stations must account for every sticker in their possession.

Quality control measures have been developed to maintain the security of all inspection-related (safety and emissions) documents. When a vehicle is initially registered or re-registered in New York, registration documents are issued. DMV requires that a registration sticker be displayed on the vehicle's windshield for the vehicle to be legally driven. The color-coded registration sticker is computer-generated and contains the vehicle description, registration expiration date, and bar-coded data.

Security features for the inspection sticker include:

- » Adhesives, inks, and a material base that tears, distorts or defaces the sticker upon any attempt to remove it from the windshield;
- » A secret mark is incorporated into the design to prevent counterfeiting;
- » Stickers are serially numbered;
- » A protective coating is used on the paper to impede the removal or alteration of the laser toner-applied printing; and
- » Use of special ink combinations and pantographs and micro-printed inscriptions.

Licensed inspection stations are held to a strict inventory of stickers with a computerized inventory maintained by the DMV. Upon receipt of stickers, stations are required to safeguard them and to record the sequentially numbered stickers within the NYVIP equipment's sticker inventory (i.e., bar code scanning). Both NYTEST and NYVIP safety/emissions inspection stickers are audited by DMV personnel for accountability during station visits. DMV can also review NYVIP sticker inventories against the State's database of sticker sales.

There are currently three types of light duty emissions inspections completed within New York State with each having its own designated sticker. These light-duty emissions inspections are: high enhanced (through NYTEST, limited to dynamometer and idle tests in the NYMA), low enhanced (through NYVIP, limited to non-OBD vehicles), and NYVIP OBDII (statewide). DMV will principally enforce the emission inspection requirements by denying registrations, but sticker-based enforcement continues (i.e., ticketing for missing or expired emissions stickers). A further discussion of stickers and inspection documentation follows:

Safety/Emissions Inspection Sticker: (Statewide, pertains to NYVIP) - The safety/emissions sticker is an adhesive type sticker, colored coded by year, with a large 2 or 4 digit year ("05" or "2005") printed in the center and the expiration month indicated by the inspector via hole punch. Stickers are serially numbered and the number is also bar coded.

Safety Inspection Sticker / Low Enhanced Sticker: (Statewide) - The safety sticker is an adhesive type sticker, colored coded by year, with a large 2 or 4 digit year printed in the center and the months indicated by a hole punch. Stickers are serially numbered and the number is also bar-coded on the sticker.

Computer Generated Sticker: (Downstate generated by NYTEST in NYMA Only) - The NYTEST analyzer generates a sticker for only "passing" or "waivered" inspections. The sticker displays an official

seal and is serially numbered. The emission sticker number is also recorded on the electronic inspection file.

11.0 WAIVERS AND TIME EXTENSIONS (§51.360)

Section 11.0 of the March 1996 Enhanced Motor Vehicle I/M SIP pertaining to the NYTEST Program remains valid. The addendum below reflects changes associated with the statewide implementation of NYVIP.

New York has allowed repair-related cost waivers in the downstate enhanced I/M area since 1998. Section 306 of New York's Vehicle and Traffic Law authorizes the Department of Motor Vehicles to issue repair waivers from the inspection requirement. Waivers are permitted for vehicles that fail an emissions inspection re-test after receiving emission-related repairs (i.e., vehicle initially fails; is repaired; and then fails again) in excess of an established cost amount. The NYVIP and NYTEST programs currently have a repair-related cost waiver limit of \$450. For a vehicle to be eligible for a waiver, the official station must verify that:

- » appropriate emissions repairs were performed;
- » the vehicle emissions system has not been tampered with;
- » the safety inspection has been passed;
- » repairs or adjustments have not resulted in the re-test being invalid or the acceptance pollutants in excess of the test limits; and
- » documented repair costs were at least as much as the cost amount.

If the DMV waiver criteria are met, an emissions inspection waiver certificate may be issued by the station. Any dispute regarding repair or waiver eligibility between the motorist and the stations will be referred to the DMV Automotive Facilities Inspector, who will make the final decision.

The statewide NYVIP program provides for 10-day time extensions under limited conditions. These time extensions are necessary to allow motorists (or technicians) the ability to drive a vehicle following an OBD II readiness criteria failure and to comply with DMV regulations. Without the time extension provision, a motorist with an expired sticker would not be able to legally drive the vehicle in an effort to re-set monitors. For these reasons, NYVIP will authorize a 10-day time extension (once per inspection cycle) under the following conditions:

1. The vehicle's inspection sticker has expired and was removed by the inspector per State regulation;
2. The vehicle fails only the OBD inspection and for only the readiness criteria; and
3. The vehicle passes all other inspection requirements (safety, ECD checks, gas cap check).

The issuance of the 10-day time extension is noted on the Vehicle Inspection Receipt, stored within the re-inspection barcode (this is also contained on the VIR), and transmitted to DMV within the official electronic record.

New York does not currently allow hardship time extensions or compliance via diagnostic inspections. An administrative type of waiver, authorized by DMV (i.e., not inspection stations), may be necessary in the future as proposed software refinements are implemented to reduce the number of inspector-based changes. If administrative waivers are necessary, the NYVIP inspection record and VIR would reflect the State authorization for tracking purposes.

New York has assumed an annual OBD waiver rate of 3% (the number of waivers divided by the number of initially failing vehicles) per year in the performance standard modeling. If the actual NYVIP waiver rate exceeds 3%, corrective action will be taken.

12.0 MOTORIST COMPLIANCE ENFORCEMENT (§51.361)

Section 12.0 of the March 1996 Enhanced Motor Vehicle I/M SIP pertaining to the NYTEST Program remains valid. The addendum below reflects changes associated with the statewide implementation of NYVIP and to report more recent monitoring data.

The DMV is charged with completing a statewide registration-based enforcement program. Existing legal authority under Part 301 of the Vehicle and Traffic Law empowers the DMV to complete this function.

The DMV has integrated and updated existing registration information into an emissions inspection database. This database identifies those vehicles requiring an emissions inspection. Following each light duty inspection, the emissions inspection stations electronically update the inspection records. Each DMV record includes vehicle identification information (i.e., vehicle class, vehicle identification number, model year, make, body type, fuel type, and weight), inspection station data, inspection date, emissions results, and repair information.

Each vehicle's record is reviewed electronically by the DMV prior to registration issuance. All DMV registration issuing offices have trained personnel with written procedures for registration enforcement. The DMV has years of practical experience with registration denial for other programs (i.e., insurance).

Unless otherwise exempt, emission inspections will be required for all re-registrations, renewals, and original registration transactions. While emissions testing is required on an annual frequency in New York, the motor vehicle registration program is on a differing biennial frequency. When the renewal invitations are sent, inspection records are checked for a valid inspection or waiver within the previous 12 months. If a record of emission inspection is not found, a registration suspension warning letter will be issued. Rejected registrants must then present proof of inspection to receive their vehicle registration.

Similar to the registration denial roll-out of the NYTEST program in 1998, the NYVIP program will need to complete slightly more than a full inspection cycle (1 year) before the Upstate I/M area registration denial program commences.

Some vehicles that are registered in New York but are operated out of state may not be able to fulfill the annual inspection requirement (i.e., motorists live elsewhere half of the year). DMV provides an exception process to directly serve these out of state individuals. A one time 10-day renewal extension is allowed for those out of state registrants without an acceptable (out of state) inspection facility available to them. These motorists need to substantiate their claim that they are out of state (i.e., military, students) at the time of renewal. The renewal will be documented as the usual New York window sticker. The renewal must be mailed to an out of state address and the motorist is instructed, that upon return to New York State, the vehicle must complete the emission inspection requirements.

If a motorist is unaware of their emission obligation (i.e., re-location from another state) and attempts to register their vehicle at a DMV office, DMV may issue a registration document and a temporary inspection sticker (10 days). The DMV registration files are initially checked for a valid inspection. Section 79.4(b) does provide, that when a nonresident becomes a resident of this State, that a certificate of inspection issued from another jurisdiction will be accepted in lieu of a New York State inspection certificate. Such a certificate will be valid until the expiration date of the out-of-state certificate, or one

year from the date of New York registration, whichever occurs first. Upon expiration of the out-of-state certificate, the motor vehicle must be inspected and bear a certificate of inspection from an official New York inspection station. If an inspection is not found by day 15, an inquiry/registration suspension notice will be issued. The registration suspension will take effect 15 days later unless the vehicle is inspected or the plates are surrendered.

Section 401(3) of the VTL requires a person to notify the DMV within 10 days of changing an address, while §250(1) requires a non-resident to register his or her vehicle within 30 days of becoming a resident of New York. Section 392 of the VTL notes that any person, who knowingly obtains a registration through false statements, alterations of records, substitution, etc, can be charged with a misdemeanor. The DMV will modify existing procedures and the registration database, as necessary, (i.e., change of address between I/M areas) to properly enforce the I/M coverage of various types of fleets. The proposed efforts have been discussed previously under Section 7, Vehicle Coverage, of this document.

During calendar 2004, DMV identified the number of tickets issued for unregistered vehicles with 26,761 found within the NYMA and 28,820 tickets found for the Upstate area. A violation of VTL, §401(1a), for having an unregistered vehicle, is a fine of not less than \$50 nor more than \$200, imprisonment for not more than 15 days, or both. If the violation consists of failure to renew a registration, which was valid within 60 days, the fine shall be not less than \$25.

Safeguards have been adopted to ensure completion of the emissions inspection requirements (prior to new registration) by registered New York State dealers.

If a motorist requests a change to the vehicle information contained on their registration (such as change from gasoline to diesel), they must seek a registration amendment from DMV. Proof would have to be provided that such a change was appropriate as well as the surrender of the vehicle's title. Such proof for the fuel change would have to consist of verification from a dealer or a repair facility. No DMV transactions will be allowed until all suspensions are cleared.

Under the existing NYTEST program, DMV staff currently performs annual sticker compliance surveys. With the implementation of statewide I/M testing, DMV will conduct annual surveys for at least 5,000 vehicles upstate and 5,000 vehicles downstate which will be reported within the Annual Report. The 2004 downstate survey indicates that the NYMA area had an estimated 97.91% compliance rate based on sticker surveys. New York has claimed a 98.0% compliance rate for performance standard modeling purposes (see Section 3).

As previously noted, DMV has ensured motorist compliance with the emission inspection requirements through a registration-based enforcement program in the NYMA area following the NYTEST implementation in 1998. The computer matching enforcement program, parking lot sticker audits, and inspection sticker compliance program will be adapted to the Upstate area as well. An enforcement activity unique to the Upstate I/M Area is that traffic tickets are issued by local law enforcement (i.e., state, county and local courts from most of the Upstate area with the exception of some cities in the western part of the State.) In 2004, there were 132,045 traffic tickets issued to motorists for having a §306(b) violation (i.e., operating uninspected vehicles).

Following the NYVIP-required sticker sale revisions, DMV accounts for every sticker ordered and issued to licensed stations. Stations must account for every sticker in their possession. With the advent of this

computerized sticker tracking protocol, the number of stickers missing, stolen, or damaged has decreased. For the NYTEST inspections, the test equipment generates stickers with a security font.

13.0 MOTORIST COMPLIANCE ENFORCEMENT PROGRAM OVERSIGHT (§51.362)

Section 13.0 of the March 1996 Enhanced Motor Vehicle I/M SIP is replaced in full by the following revision.

New York's registration denial system is controlled by the DMV. Security controls have been established to maintain the security of this system. The accuracy of the registration database is assured through the use of systems testing, data quality analysis, and data entry procedures.

DMV's inspection record database is the source of enforcement information, and this database is updated for each applicable vehicle. The accuracy of the inspection file inputs will be assured by the use of bar-coded vehicle information placed on the registration document. This registration document is attached to the windshield of the vehicle, and allows for vehicle information to be scanned directly into the test equipment (NYTEST, NYVIP) prior to the emission inspection. Although not preferred, the manual keyboard entry of vehicle information (when used) will be monitored to determine accuracy. If information entered appears inaccurate or inappropriate, the inspector will be notified. Emission test data, including inspector changes, will be stored on an electronic inspection file which is directly linked to the vehicle's registration record. DMV currently checks for the appropriate test match at registration renewal.

All DMV Issuing Offices currently have trained personnel with written procedures for registration enforcement and document handling/processing. DMV's Inspector General investigates improprieties among staff and has the capability to discipline, dismiss, or prosecute, if necessary. The most likely reason to exempt a vehicle from the enhanced I/M requirements is its vehicle classification (type/use). To guard against abuse, documentation is examined at the time of registration. The Manufacturer's Certificate of Origin or the title determines vehicle classification. Statistical control methods have been and will continue to be used to determine that the required vehicle population is being tested. This will include sampling the inspection and registration databases to determine if vehicles are able to avoid inspection by registration classes or other file manipulations. Law enforcement personnel will be notified if certain types of cheating appear to be occurring. This may be accomplished on a statewide basis via DMV's enforcement memo system and/or New York State Police NYSPIN network. Localized problems will be handled through letters to police chiefs or elected officials.

As previously noted, DMV will conduct periodic audits of test records to assess program effectiveness. DMV will conduct 2 program audits and 1 covert investigation at each NYMA station annually. In the Upstate area, DMV will conduct 1 program audit annually and 1 covert investigation every 5 years per station. This will include electronic overt and covert audits of OBDII inspections where appropriate.

DMV/DEC will also use the registration database to determine the subject vehicle population, determine program effectiveness, and estimated compliance rate. The registration denial enforcement mechanism will also be supplemented by an on-road sticker enforcement program. DMV will also continue to perform parking lot surveys to determine the compliance of the in-use fleet.

14.0 ENFORCEMENT AGAINST CONTRACTORS, STATIONS, AND INSPECTORS (§51.364)

Section 14.0 of the March 1996 Enhanced Motor Vehicle I/M SIP pertaining to the NYTEST Program remains valid. The addendum below reflects changes associated with the statewide implementation of NYVIP.

The activities required of SGS TESTCOM under the NYVIP Contract are listed in Section 1 of this document. To ensure that these items are completed, the Contractor is required to maintain a software source code escrow account, an equipment maintenance fund, a hardware reserve fund, and an irrevocable letter of credit. Under certain conditions, the Contract also provides for damages due to breach of contract and liquidated damages due to poor and/or non-performance.

The previous 1996 SIP discussion related to Station and Inspector enforcement remain in effect and applies to both the NYTEST and NYVIP programs.

15.0 DATA COLLECTION (§51.365)

Section 15.0 of the March 1996 Enhanced Motor Vehicle I/M SIP is replaced in full by the following revision.

The Department of Motor Vehicles operates a mainframe computer that supports terminal operated on-line systems. The Department has more than 1,500 registration and licensing terminals statewide allowing for data transfers to the DMV mainframe. Other agencies share information from the DMV files including the New York State Police Information Network Systems operated by the State Police. Separate on-line connections to each licensed inspection facility (NYTEST and NYVIP) are achieved through a data integrator (SGS TESTCOM) to store and transfer inspection data. An inspection record is established for every vehicle in the program that is available for data update, analysis, and enforcement routines.

Following §51.365 as a guide, New York's statewide I/M program records the following data as part of the official inspection record when applicable:

- » vehicle identification number (VIN);
- » vehicle year, make, and type;
- » test date;
- » test start time and time final emission scores are determined;
- » facility and inspector number;
- » license plate number;
- » test certificate number;
- » vehicle weight;
- » number of cylinders and engine displacement;
- » transmission type;
- » odometer reading;
- » category of test (i.e., initial test, # of re-test);
- » vehicle fuel type;
- » emission test sequence used;
- » hydrocarbon emission scores and standards for each applicable test mode (NYTEST);
- » carbon monoxide emission scores and standards for each applicable test mode (NYTEST);
- » carbon dioxide emission scores (idle test only) and standards for each applicable test mode (NYTEST);
- » oxides of nitrogen emission scores and standards for each applicable test mode (NYTEST only);
- » OBD pass/fail, listing of diagnostic trouble codes, when applicable;
- » results (pass/fail/not applicable) of the applicable visual inspections for the catalytic converter, air system, gas cap, evaporative system, positive crankcase ventilation (PCV) valve, and fuel inlet restrictor;
- » recall information;
- » repair information;
- » safety inspection results;
- » gas cap testing results; and
- » waiver information.

DMV receives a data record for each inspection transaction and uses that data for registration enforcement, station enforcement, system reporting and evaluation, and public inquiries and assistance. DMV utilizes an IBM Z990 mainframe computer for the majority of its data processing tasks. DMV processes registrations, licenses and other customer services in 120 issuing offices statewide as well as providing on-line services.

DMV receives inspection test information on a real time basis to be used for enforcement in the issuing offices. DEC will receive batch data through the data manager to comply with reporting requirements.

Section 16.0 of the March 1996 Enhanced Motor Vehicle I/M SIP is replaced in full by the following revision.

Data analysis and reporting are required to allow for proper program monitoring and evaluation by the DEC, DMV, and EPA. As specified by 40 CFR §51.366(a) through (d), New York will annually provide information and program evaluation related to I/M enforcement, quality assurance, quality control, and emission test data. Not considering heavy duty diesel I/M testing in the NYMA, New York's emissions testing presently involves one of the following 4 test types: on-board diagnostic testing, NYTEST transient, NYTEST idle, or low enhanced (ECD/gas cap presence check). The applicable emissions test is determined by inspection software, and is dependent upon the applicable I/M area and vehicle specific information (i.e., age, weight). New York State will continue to submit to EPA an Annual Report providing the basic statistics on the enhanced I/M programs based on program data from January through December of the previous year, including:

Test Data Report.

- (1) The number of vehicles tested by model year and vehicle type (NYTEST, NYVIP);
- (2) By model year and vehicle type, the number and percentage of vehicles:
 - » failing initially, per test type (NYTEST, NYVIP);
 - » failing the first re-test, per test type (NYTEST, NYVIP);
 - » passing the first re-test, per test type (NYTEST, NYVIP);
 - » failing each emission control component check initially (NYTEST, NYVIP);
 - » failing the gas cap integrity check (NYTEST, where applicable);
 - » initially failed vehicles passing the second or subsequent re-test per test type (NYTEST, NYVIP);
 - » initially failed vehicles receiving a waiver (NYTEST, NYVIP);
 - » vehicles with no known final outcome;
 - » Concerning OBD failures (initial and re-inspections):
 - MIL is commanded on and diagnostic trouble code(s) are stored,
 - readiness status indicates that the evaluation is not complete for any module supported by on-board diagnostic systems,
 - inspection equipment cannot complete OBD communication with the inspected vehicle, and
 - visual KO/EO and KO/ER MIL checks;
- (3) The initial test volume by model year and test station (NYTEST, NYVIP);
- (4) The initial test failure rate by model year and test station (NYTEST, NYVIP); and
- (5) The average increase or decrease in tailpipe emission levels for HC, NO, and NO_x after repairs by model year and vehicle type for vehicles receiving a mass emissions test (NYTEST).

Quality Assurance Report.

- (1) The number of inspection stations and lanes:
 - » operating throughout the year; and
 - » operating for only part of the year;
- (2) The number of inspection stations and lanes operating throughout the year:
 - » receiving overt performance audits in the year;
 - » not receiving overt audits performance audits in the year;
 - » receiving covert performance audits in the year;
 - » not receiving covert performance audits in the year; and
 - » that have been shut down as a result of overt performance audits;
- (3) The number of covert audits:
 - » conducted with the vehicle set to fail per test type;
 - » conducted with the vehicle set to fail the emissions control devise component;
 - » conducted with the vehicle set to fail the gas cap integrity check (NYTEST);
 - » conducted with the vehicle set to fail any combination of two or more of the above checks;
 - » resulting in a false pass by test type;
 - » resulting in a false pass for emissions control devise checks;
 - » resulting in a false pass for the gas cap integrity check; and
 - » resulting in a false pass for any combination of two or more of the above checks;
- (4) The number of inspectors and stations:
 - » that were suspended, fined, or otherwise prohibited from testing as a result of covert audits;
 - » that were suspended, fined, or otherwise prohibited from testing for other causes; and
 - » received fines;
- (5) the number of inspectors licensed or certified to conduct testing;
- (6) the number of hearings:
 - » held to consider adverse actions against inspectors and stations; and
 - » resulting in adverse actions against inspectors and stations;
- (7) the total amount collected in fines from inspectors and stations by type of violation,
- (8) the total number of covert vehicles available for undercover audits over the year; and
- (9) the number of covert auditors available for undercover audits.

Quality Control Report.

- (1) The number of emissions testing sites and lanes in use in the program (NYTEST, NYVIP);
- (2) The number of equipment audits by station and lanes (NYTEST);
- (3) The number and percentage of stations that have failed equipment audits (NYTEST); and
- (4) The number and percentages of stations and lanes shut down as a result of equipment audits (NYTEST).

Enforcement Report.

- (1) An estimate of the number of vehicles subject to the inspection program, including the results of an analysis of the registration data base;
- (2) The percentage of motorist compliance based upon a comparison of the number of valid final tests with the number of subject vehicles;
- (3) The total number of documents issued to inspection stations;
- (4) The number of missing compliance documents;
- (5) The number of time extensions and other exemptions granted to motorists;

- (6) The number of compliance surveys conducted, number of vehicles surveyed in each, and the compliance rates found; and
- (7) The following is required for NY's registration-based program:
 - » A report of the program's efforts and actions to prevent motorists from falsely registering vehicles out of the program area or falsely changing fuel type or weight class on the vehicle registration, and the results of special studies to investigate the frequency of such activity; and
 - » the number of registration file audits, number of registrations reviewed, and compliance rates found in such audits.

In addition to the Annual Reports, the Departments will submit to EPA, on a biennial frequency, reports addressing changes in program design, funding, personnel levels, procedures, regulations, and legal authority. These reports, when applicable, will detail the evaluation and discussion on the impact of these program changes. Any program weaknesses or problems identified within the preceding 2 year period shall be discussed including a listing of steps already taken, the results of these changes, and any future efforts planned.

Section 17.0 of the March 1996 Enhanced Motor Vehicle I/M SIP is replaced in full to include the NYTEST program and statewide implementation of NYVIP.

The DMV requires inspector certification for both the safety and emissions programs. Initially, a person filing an application for a motor vehicle inspector's certificate must have the following qualifications:

- (1) be at least 17 years of age,
- (2) have either:
 - (a) at least one year of experience in repairing motor vehicles immediately preceding the date of filing a application for a certified motor vehicles inspector's certification obtained in a firm in the automotive industry or in an approved cooperative work study program offering training in the automotive field; or
 - (b) a high school or vocational school diploma in vocational automotive trades or college certification of successful completion of first year of courses toward an AAS degree in automotive technology, and
- (3) have successfully completed the inspector certification training program and passed a written and skills test, authorized by the DMV Commissioner on inspection procedures. With the on-board diagnostic inspection requirements, an inspector must pass the NYVIP certification test to conduct the NYVIP inspections prior to being recertified.

Article 12-A of New York's Motor Vehicle Repair Shop Registration Act requires any person engaged in the repair or diagnosis of motor vehicles for compensation to be registered. This Act also requires written estimates for the repair work, authorization for repair work to be done, and a detailed invoice of the work completed with the part(s) supplied. The consumer is entitled to the return of all replaced parts. Signs designating registered repair shops must be displayed on the exterior of the shop for the public to recognize. Signs within the shop must explain the consumer's rights and where to call if they want to file a complaint against the repair shop. Individuals not satisfied with repairs may bring a complaint against a shop and the DMV will investigate such complaints for validity. DMV enforcement against the repair shop may include a fine, license suspension, or require customer restitution.

New York's inspector certification/training program is continually modified to reflect DEC and DMV regulations. In accordance with §51.367(a), required components include:

- » The causes and effects of air pollution;
- » The purpose, function, and goal of the inspection program;
- » New York and federal regulations and procedures;
- » Technical details of the test procedures and their design rationale;
- » Emission control device function, configuration, and inspection;
- » Testing equipment operation, calibration, and maintenance;
- » Quality control procedures and their purpose;

- » Public relations; and
- » Safety and health issues related to the inspection process.

In order to complete the training requirement, a trainee must pass a written test with a minimum score of 70% of correct responses covering all aspects of the training. There are also clinics on heavy duty vehicles and motorcycles. The DMV will take appropriate steps to insure the security and integrity of the testing process. Optional training is also available through the NYVIP program that includes a series of courses titled, “Getting to Know OBD II,” “Understanding OBD II Systems” and “OBD II Diagnostic Strategies.”

Section 18.0 of the March 1996 Enhanced Motor Vehicle I/M SIP is replaced in full to include the statewide implementation of NYVIP.

New York has developed a comprehensive public information program that outlines the need for and benefits derived from the NYTEST and NYVIP I/M components. The DMV and DEC awareness program includes public service address messages, registration inserts, pamphlets, vehicle inspection demonstrations, auto show participation, web pages, frequently asked questions (FAQs), station locators, and paid advertisements.

Motorists experiencing problems with either inspections or repairs are able to submit a complaint, either in writing or by phone call with the DMV. Complaints with merit are investigated by the DMV's Division of Vehicle Safety. Additionally, consumers who have a problem with the inspection result or waiver procedure are able to challenge the station through DMV. Field offices will handle and resolve each case presented.

DMV has instituted procedures and mechanisms to protect the public from fraud and abuse by inspectors, mechanics, and others involved in the program, including the expansion of its Consumer Services Phone Center to answer public questions and receive complaints against the inspection repair stations. Existing DMV procedures related to the handling of complaints are included in Appendix 11. DMV has also reached out to other sister agencies, such as Consumer Protection, in advance of the program to provide them with information they could use in reviewing and pursuing any complaints or inquiries regarding the NYVIP program.

As previously discussed, motorists are provided with a standardized and detailed report of their inspection. The Vehicle Inspection Receipt identifies the vehicle by vehicle identification number (VIN), model year, make, model, and plate number, and (when applicable) includes the inspection fee, sticker number, and sticker expiration date. The VIR also lists the inspections results by components (safety, ECD, emissions test) and, if applicable, whether a 10-day time extension or expenditure related waiver was authorized (see Appendix 8).

Additional consumer information (pamphlets) developed from EPA's outreach efforts are available to all test stations at no charge and can also be downloaded from the Contractor's dedicated website (www.nyvip.us).

Section 19.0 of the March 1996 Enhanced Motor Vehicle I/M SIP is replaced in full to include the statewide implementation of NYVIP.

Effective repairs are the key to achieving program emission reduction goals. New York has ensured that adequate capability exists within the repair industry to effectively repair vehicles failing the I/M inspections. The Department of Motor Vehicles periodically provides the repair industry with information and assistance related to motor vehicle inspection diagnosis and repair. For example, the NYVIP website (www.nyvip.us) includes a webpage related to vehicle-specific OBD issues including a summary of technical service bulletins (TSBs) and emissions-related recalls. The inspection stations are regularly informed of changes in the I/M program, training course schedules, and common problems found within particular engine families.

EPA regulation under §51.369(b)(1) requires a repair shop listing that includes repair effectiveness related statistics. The repair shop listing was meaningful for EPA's model centralized test-only network as this would soften the inherent "ping-pong" effect of that network type. The ping-ponging of failed vehicles between testing locations and repair stations is one of the principal reasons why New York implemented a decentralized test-and-repair network (instead of a centralized test-only network) in 1998. In test-and-repair networks, such as New York, the overwhelming majority of motorists that fail the I/M inspection have the vehicle repaired at the same station location.

With the implementation of the NYVIP, New York has developed a standardized Repair Effectiveness Report. This Report is developed for State and Station monitoring purposes rather than to rank repair stations for public information.

The Department of Motor Vehicles will continue to monitor the performance of individual test-and-repair stations within the enhanced I/M areas. For each licensed station, DMV actively tracks initial failure rates, re-inspection pass rates on the first re-inspection, the percentage of time a multiple repair/re-inspection is required, and frequency of repair expenditure related waivers. This data is utilized for both informational reporting and enforcement purposes. DMV does not see a demonstrated need for a public repair effectiveness report considering the established test-and-repair network and low complaint volume. If a future need develops, New York will develop a procedure as presented within the I/M regulations.

Training is also available through the NYVIP program, including a series of courses on "Getting to Know OBDII," "Understanding OBD II Systems," and "OBD II Diagnostic Strategies" which are available for nominal fees to participants. There are other entities that provide automotive training within New York State, including but not limited to: Community Colleges, BOCES programs, State Associations, manufacturer (dealer) programs, local independent training schools, technical institutes, and local education courses. Surveys of educational programs have shown that there are an adequate number of courses available. Growth has been limited by insufficient demand.

20.0 COMPLIANCE WITH RECALL PROVISIONS (§51.370)

Section 20.0 of the March 1996 Enhanced Motor Vehicle I/M SIP is replaced in full to include the statewide implementation of NYVIP.

The transmission of recall information to motorists and inspectors through the statewide NYVIP program is accomplished as follows:

1. DMV identifies the applicable recall information from the United States Environmental Protection Agency (EPA) website,
2. The vehicle-specific recall information is referred to the NYVIP contractor,
3. The NYVIP Contractor links the recall information to a vehicle specific look-up table. The resulting table is updated in the NYVIP analyzers annually.
4. After an inspector enters the vehicle information (i.e., make, model, model year) into the NYVIP analyzer, the application evaluates the recall table for a match. If a recall match is found, the recall message is displayed to the inspector prior to the inspection's final pass/fail finding. Should the vehicle fail an OBD inspection, the recall information is also printed on the motorist's Vehicle Inspection Receipt. NYVIP also records that the recall notice was generated within the official inspection file (INSPREC.DAT file).

Note that the specifics of the recall may or may not apply to the vehicle being inspected as other criteria (i.e., engine size) may be involved. The recall message is clear in this regard. A sample of the NYVIP recall information, as printed on the Vehicle Inspection Receipt, is as follows:

EXAMPLE:

EMISSIONS RECALL

The following model year, make, and model vehicle has been subject to an emission recall as reported by the EPA.

Make: PLYMOUTH Model: NEON Year: 1996
Engine Families: (Built 11/12/95)
Defect: Powertrain Control Module (PCM) software changed for OBDII
Date of Owner Notification: 9/23/1996

Check with your dealer to see if the recall applies to your vehicle.

APPENDIX 1

New York State Department of Environmental Conservation Regulations,
6 NYCRR Parts 200 and 217

APPENDIX 2

New York State Department of Motor Vehicles Regulations, 15 NYCRR Part 79

APPENDIX 3

DEC On-board Diagnostic Public Hearings

APPENDIX 4

Upstate New York Demographics (1990), I/M Geographic Coverage

APPENDIX 5

Upstate Low Enhanced Performance Standard Modeling

APPENDIX 6

Statewide Summary of Vehicles

APPENDIX 7

DMV Emissions Inspection Procedure Manual
(VS-28, revised November 2002)

APPENDIX 8

New York Vehicle Inspection Program Request for Proposals (RFP)

NYVIP Specification Summary

Optional NYTEST OBD Specifications

APPENDIX 9

DEC NYVIP Test Script

APPENDIX 10

DMV Audit Procedures

APPENDIX 11

DMV “Procedure to Process Complaints”

Revisions to the NYTEST Technical Specifications

Optional NYTEST On-board Diagnostic (OBD II) Testing (rev. 11/24/03)

Section I Section VIII

New York Vehicle Inspection Program (NYVIP)

Specification Summary