

Environmental Protection Agency

§ 51.364

(vii) State administrative procedures laws;

(viii) Quality assurance practices; and

(ix) Covert audit procedures.

(2) Auditors shall themselves be audited at least once annually.

(3) The training and knowledge requirements in paragraph (d)(1) of this section may be waived for temporary auditors engaged solely for the purpose of conducting covert vehicle runs.

(e) *SIP requirements.* The SIP shall include a description of the quality assurance program, and written procedures manuals covering both overt and covert performance audits, record audits, and equipment audits. This requirement does not include materials or discussion of details of enforcement strategies that would ultimately hamper the enforcement process.

[57 FR 52987, Nov. 5, 1992, as amended at 65 FR 45534, July 24, 2000]

§ 51.364 Enforcement against contractors, stations and inspectors.

Enforcement against licensed stations or contractors, and inspectors shall include swift, sure, effective, and consistent penalties for violation of program requirements.

(a) *Imposition of penalties.* A penalty schedule shall be developed that establishes minimum penalties for violations of program rules and procedures.

(1) The schedule shall categorize and list violations and the minimum penalties to be imposed for first, second, and subsequent violations and for multiple violation of different requirements. In the case of contracted systems, the State may use compensation retainage in lieu of penalties.

(2) Substantial penalties or retainage shall be imposed on the first offense for violations that directly affect emission reduction benefits. At a minimum, in test-and-repair programs inspector and station license suspension shall be imposed for at least 6 months whenever a vehicle is intentionally improperly passed for any required portion of the test. In test-only programs, inspectors shall be removed from inspector duty for at least 6 months (or a retainage penalty equivalent to the inspector's salary for that period shall be imposed).

(3) All findings of serious violations of rules or procedural requirements shall result in mandatory fines or retainage. In the case of gross neglect, a first offense shall result in a fine or retainage of no less than \$100 or 5 times the inspection fee, whichever is greater, for the contractor or the licensed station, and the inspector if involved.

(4) Any finding of inspector incompetence shall result in mandatory training before inspection privileges are restored.

(5) License or certificate suspension or revocation shall mean the individual is barred from direct or indirect involvement in any inspection operation during the term of the suspension or revocation.

(b) *Legal authority.* (1) The quality assurance officer shall have the authority to temporarily suspend station and inspector licenses or certificates (after approval of a superior) immediately upon finding a violation or equipment failure that directly affects emission reduction benefits, pending a hearing when requested. In the case of immediate suspension, a hearing shall be held within fourteen calendar days of a written request by the station licensee or the inspector. Failure to hold a hearing within 14 days when requested shall cause the suspension to lapse. In the event that a State's constitution precludes such a temporary license suspension, the enforcement system shall be designed with adequate resources and mechanisms to hold a hearing to suspend or revoke the station or inspector license within three station business days of the finding.

(2) The oversight agency shall have the authority to impose penalties against the licensed station or contractor, as well as the inspector, even if the licensee or contractor had no direct knowledge of the violation but was found to be careless in oversight of inspectors or has a history of violations. Contractors and licensees shall be held fully responsible for inspector performance in the course of duty.

(c) *Recordkeeping.* The oversight agency shall maintain records of all warnings, civil fines, suspensions, revocations, and violations and shall compile statistics on violations and penalties on an annual basis.

(d) *SIP requirements.* (1) The SIP shall include the penalty schedule and the legal authority for establishing and imposing penalties, civil fines, license suspension, and revocations.

(2) In the case of State constitutional impediments to immediate suspension authority, the State Attorney General shall furnish an official opinion for the SIP explaining the constitutional impediment as well as relevant case law.

(3) The SIP shall describe the administrative and judicial procedures and responsibilities relevant to the enforcement process, including which agencies, courts, and jurisdictions are involved; who will prosecute and adjudicate cases; and other aspects of the enforcement of the program requirements, the resources to be allocated to this function, and the source of those funds. In States without immediate suspension authority, the SIP shall demonstrate that sufficient resources, personnel, and systems are in place to meet the three day case management requirement for violations that directly affect emission reductions.

(e) Alternative quality assurance procedures or frequencies that achieve equivalent or better results may be approved by the Administrator. Statistical process control shall be used whenever possible to demonstrate the efficacy of alternatives.

(f) Areas that qualify for and choose to implement an OTR low enhanced I/M program, as established in § 51.351(h), and that claim in their SIP less emission reduction credit than the basic performance standard for one or more pollutants, are not required to meet the oversight specifications of this section.

[57 FR 52987, Nov. 5, 1992, as amended at 61 FR 39037, July 25, 1996]

§ 51.365 Data collection.

Accurate data collection is essential to the management, evaluation, and enforcement of an I/M program. The program shall gather test data on individual vehicles, as well as quality control data on test equipment (with the exception of test procedures for which either no testing equipment is required or those test procedures relying upon a vehicle's OBD system).

(a) *Test data.* The goal of gathering test data is to unambiguously link specific test results to a specific vehicle, I/M program registrant, test site, and inspector, and to determine whether or not the correct testing parameters were observed for the specific vehicle in question. In turn, these data can be used to distinguish complying and non-complying vehicles as a result of analyzing the data collected and comparing it to the registration database, to screen inspection stations and inspectors for investigation as to possible irregularities, and to help establish the overall effectiveness of the program. At a minimum, the program shall collect the following with respect to each test conducted:

- (1) Test record number;
- (2) Inspection station and inspector numbers;
- (3) Test system number (where applicable);
- (4) Date of the test;
- (5) Emission test start time and the time final emission scores are determined;
- (6) Vehicle Identification Number;
- (7) License plate number;
- (8) Test certificate number;
- (9) Gross Vehicle Weight Rating (GVWR);
- (10) Vehicle model year, make, and type;
- (11) Number of cylinders or engine displacement;
- (12) Transmission type;
- (13) Odometer reading;
- (14) Category of test performed (i.e., initial test, first retest, or subsequent retest);
- (15) Fuel type of the vehicle (i.e., gas, diesel, or other fuel);
- (16) Type of vehicle preconditioning performed (if any);
- (17) Emission test sequence(s) used;
- (18) Hydrocarbon emission scores and standards for each applicable test mode;
- (19) Carbon monoxide emission scores and standards for each applicable test mode;
- (20) Carbon dioxide emission scores (CO+CO₂) and standards for each applicable test mode;
- (21) Nitrogen oxides emission scores and standards for each applicable test mode;