(2) Permit EPA audits of the enforcement process;

(3) Assure the accuracy of registration and other program document files;

(4) Maintain and ensure the accuracy of the testing database through periodic internal and/or third-party review;

(5) Compare the testing database to the registration database to determine program effectiveness, establish compliance rates, and to trigger potential enforcement action against non-complying motorists; and

(6) Sample the fleet as a determination of compliance through parking lot surveys, road-side pull-overs, or other in-use vehicle measurements.

(c) *SIP requirements*. The SIP shall include a description of enforcement program oversight and information management activities.

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

§ 51.363 Quality assurance.

An ongoing quality assurance program shall be implemented to discover, correct and prevent fraud, waste, and abuse and to determine whether procedures are being followed, are adequate, whether equipment is measuring accurately, and whether other problems might exist which would impede program performance. The quality assurance and quality control procedures shall be periodically evaluated to assess their effectiveness and relevance in achieving program goals.

(a) *Performance audits*. Performance audits shall be conducted on a regular basis to determine whether inspectors are correctly performing all tests and other required functions. Performance audits shall be of two types: overt and covert, and shall include:

(1) Performance audits based upon written procedures and results shall be reported using either electronic or written forms to be retained in the inspector and station history files, with sufficient detail to support either an administrative or civil hearing;

(2) Performance audits in addition to regularly programmed audits for stations employing inspectors suspected of violating regulations as a result of audits, data analysis, or consumer complaints;

(3) Overt performance audits shall be performed at least twice per year for each lane or test bay and shall include:

(i) A check for the observance of appropriate document security;

(ii) A check to see that required record keeping practices are being followed;

(iii) A check for licenses or certificates and other required display information; and

(iv) Observation and written evaluation of each inspector's ability to properly perform an inspection;

(4) Covert performance audits shall include:

(i) Remote visual observation of inspector performance, which may include the use of aids such as binoculars or video cameras, at least once per year per inspector in high-volume stations (i.e., those performing more than 4000 tests per year);

(ii) Site visits at least once per year per number of inspectors using covert vehicles set to fail (this requirement sets a minimum level of activity, not a requirement that each inspector be involved in a covert audit);

(iii) For stations that conduct both testing and repairs, at least one covert vehicle visit per station per year including the purchase of repairs and subsequent retesting if the vehicle is initially failed for tailpipe emissions (this activity may be accomplished in conjunction with paragraph (a)(4)(ii) of this section but must involve each station at least once per year);

(iv) Documentation of the audit, including vehicle condition and preparation, sufficient for building a legal case and establishing a performance record;

(v) Covert vehicles covering the range of vehicle technology groups (e.g., carbureted and fuel-injected vehicles) included in the program, including a full range of introduced malfunctions covering the emission test, the evaporative system tests, and emission control component checks (as applicable);

(vi) Sufficient numbers of covert vehicles and auditors to allow for frequent rotation of both to prevent detection by station personnel; and

(vii) Where applicable, access to on-line inspection databases by State personnel to permit the creation and maintenance of covert vehicle records.

(b) *Record audits*. Station and inspector records shall be reviewed or screened at least monthly to assess station performance and identify problems that may indicate potential fraud or incompetence. Such review shall include:

(1) Automated record analysis to identify statistical inconsistencies, unusual patterns, and other discrepancies;

(2) Visits to inspection stations to review records not already covered in the electronic analysis (if any); and

(3) Comprehensive accounting for all official forms that can be used to demonstrate compliance with the program.

(c) *Equipment audits*. During overt site visits, auditors shall conduct quality control evaluations of the required test equipment, including (where applicable):

(1) A gas audit using gases of known concentrations at least as accurate as those required for regular equipment quality control and comparing these concentrations to actual readings;

(2) A check for tampering, worn instrumentation, blocked filters, and other conditions that would impede accurate sampling;

(3) A check for critical flow in critical flow CVS units;

(4) A check of the Constant Volume Sampler flow calibration;

(5) A check for the optimization of the Flame Ionization Detection fuel-air ratio using methane;

(6) A leak check;

(7) A check to determine that station gas bottles used for calibration purposes are properly labelled and within the relevant tolerances;

(8) Functional dynamometer checks addressing coast-down, roll speed and roll distance, inertia weight selection, and power absorption;

(9) A check of the system's ability to accurately detect background pollutant concentrations;

(10) A check of the pressure monitoring devices used to perform the evaporative canister pressure test(s); and

(11) A check of the purge flow metering system.

(d) *Auditor training and proficiency*. (1) Auditors shall be formally trained and knowledgeable in:

(i) The use of test equipment and/or procedures;

(ii) Program rules and regulations;

(iii) The basics of air pollution control;

(iv) Basic principles of motor vehicle engine repair, related to emission performance;

(v) Emission control systems;

(vi) Evidence gathering;

(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.