§ 303. Official inspection stations. (a) The commissioner is authorized to operate, enter into contracts with any person to operate, and license official inspection stations for the purpose of making the inspection prescribed by this article and for the purpose of issuing certificates of inspection.

(1) A license to operate an official inspection station shall be issued only upon written application which shall set forth such facts and evidence as may be required to ascertain the identity, qualifications and character of the applicant. An original application for a license for an official inspection station shall be accompanied by an application fee of twenty-five dollars, which shall in no event be refunded. The commissioner shall issue a license, after appropriate inquiry and investigation, only when satisfied that the station is properly equipped and has competent personnel to make such inspections and that such inspections will be properly conducted, and that the applicant complies with the provisions of this article and the rules and regulations promulgated thereunder. If an application is approved by the commissioner, a license shall be issued to the applicant. The annual fee for a license or license renewal shall be fifty dollars. The commissioner may issue such licenses on a staggered expiration basis, in which event the fees for such licenses shall be prorated on a monthly basis. In no event shall the fee exceed one hundred dollars for two years. The commissioner shall have discretion to issue a license or license renewal which shall be valid for a period of not more than two years. The fee for any such renewal shall be not more than one hundred dollars.

(2) The commissioner may issue a temporary permit to any applicant for a license under the provisions of this article pending final action on an application made for such a license, and the computation of the license fee, if a license is issued, shall be computed from the date of issuance of the temporary permit. Any such permit shall be valid for a period not in excess of sixty days. The provisions of this paragraph relating to fees, shall not apply to the state, a city, county, village, town or school district, or any of the departments thereof.

(3) A contract to operate an emission inspection facility shall include the following conditions:

(i) emission inspection facilities must be geographically dispersed

throughout each region in numbers sufficient to allow motorists reasonable access to such facilities;

(ii) maximum daily average waiting times for motorists at emission inspection facilities shall not exceed fifteen minutes for more than five days each calendar month; and

(iii) no emission inspection facility authorized by a chapter of the laws of nineteen hundred ninety-three shall begin to operate commercially, except for a limited test period not to exceed thirty-one days as approved by the department, prior to January first, nineteen hundred ninety-six, in any area of the state which has an emission inspection program in operation at the time of the enactment of such chapter. The commissioner shall approve any proposed fee schedule to the extent that it will allow an official inspection station operating such a pre-existing program to recover any additional fee imposed by such chapter.

(b) Each official inspection station shall keep a record of inspections, re-inspections, and the results thereof, and a record of certificates of inspection issued.

(c) Each official inspection station shall prominently display in an area of the station where the orderly transaction of business of such station occurs a sign provided or approved by the department and, after a motor vehicle fails to pass inspection at such station, provide written notice on forms provided or approved by the department to the owner or person in charge of said vehicle that the necessary repairs must be made to the vehicle within thirty days from the date of inspection and that such repairs need not necessarily be made at that station and shall be made in a manner consistent with federal law and regulations. The period allowed for repair shall not extend the expiration date of either the inspection sticker or registration certificate.

(d) 1. The commissioner shall supervise and cause inspections to be made of such official inspection stations. It shall be the duty of the superintendent of state police and of the police forces of all municipalities of the state to assist the commissioner in assuring compliance by all official inspection stations with the provisions of this article and with all rules and regulations promulgated thereunder. An official inspection station and the records thereof shall be open for

inspection at reasonable times by any police officer or any person designated by the commissioner to inspect such official inspection stations or any person designated by the commissioner of environmental conservation to inspect such official inspection stations with respect to emission inspections.

2. The commissioner shall have the right to inspect motor vehicles located on the premises of any person, association, corporation, subsidiary corporation or municipality having obtained permission to conduct self-inspection of motor vehicles pursuant to subdivision (c) or (f) of section three hundred two of this chapter and which have been issued a certificate of inspection within the previous fifteen days.

(e) 1. A license to operate an official inspection station or a certificate to inspect vehicles may be suspended or revoked or renewal thereof may be refused by the commissioner or any person duly deputized for one or more of the following causes:

(i) Failure to conduct inspections in conformance with the provisions of this article and the rules and regulations promulgated thereunder or improper issuance of certificates of inspections.

(ii) Conviction of a crime involving fraud, theft, perjury or bribery or other cause which would permit disqualification from receiving a license or a certificate to inspect vehicles upon the original application.

(iii) Fraud, deceit or misrepresentation in securing the license or a certificate to inspect vehicles or in the conduct of licensed or certified activity.

(iv) Excessive charges for conducting inspections and for making adjustments, corrections or repairs required by such inspections.

(v) Violation of any provision of this article or any rule or regulation promulgated thereunder.

2. Provided, however a license to operate an official inspection station or a certificate to inspect vehicles shall be suspended or revoked or renewal thereof shall be refused by the commissioner or any person duly deputized, upon a third or subsequent violation committed within a period of eighteen months of any rule or regulation of the commissioner requiring an inspection station to refuse to perform an

inspection as set forth in paragraph two of subdivision (f) of section 79.20 of title fifteen of the codes, rules and regulations of the state of New York. If the commissioner or any person duly deputized orders penalties to be paid pursuant to subdivision (h) of this section, such penalties shall be in addition to, but not in lieu of, a suspension, revocation, or renewal thereof imposed pursuant to this paragraph.

3. Provided, however, a license to operate an official inspection station or a certificate to inspect vehicles shall be suspended or revoked or renewal thereof shall be refused by the commissioner or any person duly deputized, upon a third or subsequent willful violation, all within a period of eighteen months, of any rule or regulation of the commissioner requiring an inspection station to inspect the muffler or exhaust system of a motorcycle as set forth in subdivision (c) of section 79.28 of title 15 of the codes, rules and regulations of the state of New York. If the commissioner or any person duly deputized orders penalties to be paid pursuant to subdivision (h) of this section, such penalties shall be in addition to, but not in lieu of, a suspension, revocation, or renewal thereof imposed pursuant to this paragraph.

(f) No license or certificate shall be revoked or suspended, or renewal refused, except upon notice to the licensee or certified inspector and after an opportunity to be heard. A license or certificate, however, may be temporarily suspended upon a written notice of temporary suspension delivered by certified mail to the licensee or certified inspector pending any prosecution, investigation or hearing. The written notice of temporary suspension shall provide that the temporary suspension is effective seventy-two hours after delivery of such notice. Whenever any license to operate an official inspection station or certificate to inspect vehicles is revoked, no license or certificate shall be reissued to an applicant until after the expiration of a period of one year from the date of such revocation.

(g) Upon the revocation or suspension of an inspection station license or certificate to inspect vehicles, the holder thereof shall deliver such license or certificate to the revoking or suspending officer, together with all inspection and inspection extension certificates, all inspection record forms, and any and all other items in the possession

of the license or certificate holder which theretofore had been issued by the commissioner for use in connection with the inspection station or the inspection of vehicles. The failure of the holder thereof to deliver any of the aforesaid items to the revoking or suspending officer, or to any peace officer, acting pursuant to his special duties, or police officer directed by the commissioner or agent of the commissioner, displaying authorization to act in such capacity along with a certified copy of the order revoking or suspending such inspection station license, to secure possession thereof, shall constitute a misdemeanor.

(h) The commissioner, or any person duly deputized, in addition to or in lieu of revoking or suspending a license to operate an official inspection station or a certificate to inspect vehicles, may by order require the licensee or certified inspector to pay to the people of this state a penalty for a first violation a sum not exceeding one thousand dollars for each violation found to have been committed; and for a second or subsequent violation not arising out of the same incident both of which were committed within a period of thirty months, a sum of not more than one thousand five hundred dollars for each violation found to have been committed; provided, however, the penalty for each and any violation of subparagraph (iii) of paragraph one of subdivision (e) of this section found to have been committed shall be no less than five hundred dollars and no more than one thousand five hundred dollars, and provided further, however, the penalty for a violation found to have been committed of any rule or regulation of the commissioner requiring an inspection station to refuse to perform an inspection as set forth in paragraph two of subdivision (f) of section 79.20 of title fifteen of the codes, rules and regulations of the state of New York shall be a fine of not less than two hundred fifty dollars nor more than one thousand dollars for a first violation, and a fine of not less than five hundred dollars nor more than one thousand five hundred dollars for a second or subsequent such violation not arising out of the same incident both of which were committed within a period of eighteen months, and upon the failure of such licensee to pay such penalty within twenty days after the mailing of such order, postage prepaid, registered or certified, and addressed to the last known place of business of such licensee or certified inspector, unless such order is stayed by a court of competent jurisdiction or in accordance with the provisions of

article three-A of this chapter, the commissioner may revoke the license of such licensee or the certificate of such certified inspector or may suspend the same for such period as may be determined. Civil penalties assessed under this subdivision shall be paid to the commissioner for deposit into the state treasury, and unpaid civil penalties may be recovered by the commissioner in a civil action in the name of the commissioner. In addition, as an alternative to such civil action and provided that no proceeding for judicial review shall then be pending and the time for initiation of such proceeding shall have expired, the commissioner may file with the county clerk of the county in which the registrant is located or the certified inspector resides a final order of the commissioner containing the amount of the penalty assessed. The filing of such final order shall have the full force and effect of a judgment duly docketed in the office of such clerk and may be enforced in the same manner and with the same effect as that provided by law in respect to executions issued against property upon judgments of a court of record.

(i) The holder of an inspection station license shall remove or cause to be removed any sign which contains the license number of the station which is visible to the public and which is required to be displayed by this article or regulations promulgated thereunder if the license is revoked or suspended or the inspection station is out of business. If the license is only suspended, the holder may cover up the sign instead of removing it.

(j) No person shall permit the display of any sign required to be displayed by this article or regulations promulgated thereunder indicating to the public that an official inspection station is operating unless an inspection station license has been issued to that person and is currently valid.