

# Appendix A-1.1

## Proposed 15-Day Changes to the Proposed Heavy-Duty Inspection and Maintenance Regulation

### Heavy-Duty Vehicle Inspection and Maintenance Program

Note: This attachment to the "Notice of Public Availability of Modified Text and Availability of Additional Documents and Information" regarding the "Proposed Heavy-Duty Inspection and Maintenance Regulation" shows the proposed 15-day changes to the originally proposed regulatory language. The originally proposed regulatory language of sections 2195 through 2199.1 is shown in "normal type." Deletions and additions to the originally proposed regulatory language are shown in strikethrough to indicate deletions and underline to indicate additions. [Bracketed text] is placeholder text to be updated upon approval of these amendments. For ease of readability, CARB has also provided an alternate Microsoft Word version of the proposed amendments that can toggle between amendments in strikeout/underline and a "clean" version with amendments incorporated into the regulatory text, which can be found in Appendix A-1.2

## Chapter 3.7. Heavy-Duty Vehicle Inspection and Maintenance Program

Section 2195.	Applicability.
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Section 2196.5.	Roadside Emissions Monitoring Devices.
Section 2196.6.	Smoke Opacity Standards.
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Section 2197.	Freight Contractor, Broker, and Applicable Freight Facility Requirements.
Section 2197.1.	HD I/M Tester Requirements.
Section 2197.2.	Reporting Requirements.
Section 2197.3.	Recordkeeping Requirements.
Section 2198.	Vehicle Emissions Control Equipment Inspections.
Section 2198.1.	In-person Field Inspection Requirements for Drivers and Inspectors.
Section 2198.2.	Enforcement.
Section 2199.	Severability of Provisions.
Section 2199.1.	Sunset of the Requirements of the Heavy-Duty Vehicle Inspection Program and the Periodic Smoke Inspection Program.

## Proposed Regulation Order

Title 13, California Code of Regulations

Adopt Sections 2195, 2195.1, 2196, 2196.1, 2196.2, 2196.3, 2196.4, 2196.5, 2196.6, 2196.7, 2196.8, 2197, 2197.1, 2197.2, 2197.3, 2198, 2198.1, 2198.2, 2199, and 2199.1 of title 13, California Code of Regulations, to read as follows:

### **§ 2195. Applicability.**

(a) This HD I/M Regulation applies to:

- (1) All non-gasoline heavy-duty vehicles operating in California and the owners and operators of such vehicles.
- (2) Any freight contractor or broker doing business with owners of vehicles subject to the requirements of this HD I/M Regulation.
- (3) An applicable freight facility allowing the operation of vehicles subject to the requirements of this HD I/M Regulation on their property.
- (4) Vendors of devices used to test vehicles in accordance with the requirements of this HD I/M Regulation.
- (5) Individuals performing vehicle testing in accordance with the requirements of this HD I/M Regulation.

(b) This HD I/M Regulation does not apply to:

- (1) Zero-emission heavy-duty vehicles, as defined in this HD I/M Regulation;
- (2) Authorized emergency vehicles, as defined in this HD I/M Regulation;
- (3) Tactical vehicles operated by the military as described in title 13, CCR, section 1905;

- (4) For four (4) years from the effective date of this HD I/M Regulation, a vehicle equipped with an engine that has been CARB-certified to meet the most stringent optional reduced NOx standard as defined in title 13, CCR, section 1956.8, purchased on or after the effective date;
  - (5) Motor homes, as defined in this HD I/M Regulation, registered outside of California and used for recreational purposes.
  - (6) Vehicles operating under a CARB-issued experimental permit as authorized by California Health and Safety Code section 43014;
  - (7) Vehicles issued a permanent Historical Vehicle License Plate as authorized by California Vehicle Code section 5004; or
  - (8) Vehicles operating under an Executive Order or Emergency Declaration as specified in subsection (c).
- (c) Exemption Pursuant to Declared Emergency. Any out-of-state heavy-duty vehicle operating pursuant to an Executive Order or Emergency Declaration by the Governor of California, shall be exempt from the requirements of this HD I/M Regulation for 30 calendar days from the first day of operation under these emergency orders. -After 30 calendar days, the owner of an out-of-state heavy-duty vehicle operating under these emergency orders shall ~~obtain a~~ ensure HD I/M compliance certificate pursuant to this HD I/M Regulation.
- (d) The requirements of sections ~~2196.1, (f), 2196.2, 2197.2(b), 2196.8, and 2197 shall not take effect prior to~~ become effective following the Executive Officer determining that the devices, tools, and platforms within the electronic reporting system necessary to July 1, 2023. The requirements of section 2196.2 shall not take effect prior to January 1, 2024. The effectively implement the specific requirement have been built, tested, and are ready for use by regulated entities. Once the foregoing conditions are met, the Executive Officer shall ~~notify regulated~~ entities of the effective dates by publishing the effective dates in the California Regulatory Notice Register and on CARB's website at least 90 calendar days prior to the effective dates. The Executive Officer shall ensure the effective date of sections 2196.1(f), 2197.2(b), 2196.8 and 2197 is no earlier than July 1, 2023, and that the effective date of section 2196.2 is no earlier than January 1, 2024.

NOTE: Authority cited: Sections 39002, 39003, 39600, 39601, 43000, 43013, 43018, 43701, 44011.6, and 44152, Health and Safety Code. Reference: Sections 43014, 44152, Health and Safety Code; Section 5004, Vehicle Code.

## § 2195.1. Definitions.

- (a) For the purposes of this HD I/M Regulation, the following definitions shall apply:

“Affirmation of Fleet Wide Compliance” means a document issued to a fleet by the Executive Officer affirming that the vehicles within the given fleet are compliant with the requirements of this HD I/M Regulation ~~and have a valid compliance certificate.~~

“Aftermarket part” means a performance ~~and/or~~ add-on part issued an Executive Order that exempts the part from the prohibitions of California Vehicle Code section 27156.

“Aftermarket parts label” means a product information label that is affixed to an aftermarket part that contains, at a minimum, the product name as exempted, CARB Executive Order number, instruction for proper installation, the manufacturer’s name, and manufacturer’s address.

“Agricultural vehicle” means a vehicle or truck-tractor trailer combination owned ~~and/or~~ operated by a farming business and used exclusively in agricultural operations to transport agricultural products to the first point of processing and does not include vehicles that do not directly support farming operations, such as personal use vehicles.

- (1) First point of processing refers to the location where harvested crops, bees, fowl, fish, livestock, animals, or their products, such as wool, milk, or eggs, are first altered from their original state, or the first location where unaltered products are packaged and prepared for transportation.
- (2) A first point of processing may include packinghouses, slaughterhouses, cotton gins, nut hullers/shellers and processors, dehydrators, lumber mills, feed and grain mills, and biomass facilities. For some crops, the first point of processing may be in the field, such as chipping wood.
- (3) A first point of processing is not a location of the product’s final use and does not include distribution centers, wholesale and retail sales locations where the first processing of a product does not occur, livestock auction houses, and subsequent locations where processing, canning, or similar activities occur after departing a first point of processing location.

“Alternative compliance verification terminal” means an applicable freight facility that does not, as of January 1, 2022, have automatic methods, including

but not limited to Radio Frequency Identification Devices (RFID) or Automatic License Plate Recognition (ALPR), to identify each vehicle entering the facility.

“Alternative fuel” means natural gas, propane, ethanol, methanol, or other non-diesel or non-gasoline fuel, and includes any of these fuels used in combination with each other. For purposes of this HD I/M Regulation, “alternative fuel” does not mean electricity, hydrogen, or other zero tailpipe emissions fuel or technology.

“Alternative fuel retrofit system” or “retrofit system” is a package of fuel storage and delivery, ignition, emission control, on board diagnostic (OBD), and engine components that are modified, removed, or added during the process of modifying a motor vehicle or engine to operate on an alternative fuel.

“Applicable freight facility” is any of the following facilities within California if one or more heavy-duty vehicles operate within the legal property boundary of the facility:

~~(4)~~(1) \_\_\_\_\_ A seaport facility, as defined in this section; or

~~(5)~~(2) \_\_\_\_\_ An intermodal railyard, as defined in this section.

“Authorized emergency vehicle” means vehicles meeting one of the following requirements:

~~(6)~~(1) \_\_\_\_\_ Authorized emergency vehicles as specified in California Vehicle Code section 165.

~~(7)~~(2) \_\_\_\_\_ A publicly owned authorized emergency vehicle used by an emergency medical technician-paramedic, as defined in California Health and Safety Code section 1797.84, only as necessary to ensure the ability to respond to emergencies.

“Broker” means any person that, as a principal or agent, sells, offers for sale, negotiates for, or holds itself out by solicitation, advertisement, or otherwise as selling, providing, or arranging for transportation within California by motor carrier for compensation. A motor carrier, or person who is an employee or bona fide agent of a carrier, is not a broker when it arranges or offers to arrange the transportation of shipments which it is authorized to transport and which it has accepted and legally bound itself to transport.

“Calendar year” means January 1 to December 31 for a given year.

"California registered vehicle" means a vehicle that is required to register with the California DMV to legally operate in California.

"CARB" means the California Air Resources Board.

"Citation" means a notice issued by the CARB alleging a violation of the requirements ~~specified in section 2198.2(b) of this HD I/M Regulation~~, which requires submission of documentation and payment of a penalty as specified in section 2198.2(b).

"Class I Railroad" has the same meaning as defined in 49 U.S.C. § 20102(1).

"Commercial purposes" means for the purposes of transportation of materials, goods, commodities or persons for compensation, hire, or profit.

~~"Compliance certificate" means a certificate issued to a vehicle owner by the Executive Officer, obtained after demonstrating compliance with this HD I/M Regulation, confirming the vehicle can legally operate in the state.~~

"Compliance deadline" refers to the deadline by which a vehicle shall demonstrate compliance with the requirements of this HD I/M Regulation.

~~(8)~~(1) \_\_\_\_\_ "Annual compliance deadline" refers to the deadline once per compliance year for which a qualifying vehicle owner shall verify compliance pursuant to this HD I/M Regulation. The annual deadline is the final day of a vehicle's compliance year.

~~(9)~~(2) \_\_\_\_\_ "Semiannual compliance deadline" refers to the deadline twice aper compliance year for which a vehicle owner shall verify compliance pursuant to this HD I/M Regulation. Semiannual deadlines occur on a vehicle's compliance year expiration day in months six and twelve of each compliance year with the deadline in month twelve being the final day of a vehicle's compliance year. If the semiannual compliance deadline would be a higher number than the total number of days in month six ~~and/or~~ twelve, the semiannual compliance deadline shall be the last day of that month.

(3) "Quarterly compliance deadline" refers to the deadline four times per compliance year for which a vehicle owner shall verify compliance pursuant to this HD I/M Regulation. Quarterly deadlines occur on a vehicle's compliance year expiration day in months three, six, nine, and twelve of each compliance year with the deadline in month twelve being the final day of a vehicle's compliance year. If the quarterly compliance

deadline would be a higher number than the total number of days in any of the months three, six, nine, or twelve, the quarterly compliance deadline shall be the last day of that month.

“Compliance test” means the applicable test specified in sections 2196.3 and 2196.4 required of a vehicle subject to this HD I/M Regulation.

~~(10)~~(1) If the compliance test performance date is different than its date of submission to the electronic reporting system, the Executive Officer shall deem the test performance date as the date of record.

“Compliance year” refers to the annual period for which a vehicle’s compliance fee applies. For California-registered vehicles, the start and end date of every compliance year shall align with the day and month of a vehicle’s DMV registration expiration date. The month of a compliance year refers to the month measured from the start of the compliance year. Thus, if the compliance year start date is in June, month three of the compliance year is September.

~~(11)~~(1) The compliance year for a non-California registered vehicle and vehicles exempt from DMV registration shall be determined based on the vehicle’s VIN. The compliance year shall begin and end on the last day of the month specified below based on the last number of a vehicle’s VIN, as shown in the table below.

0	October
1	November
2	December
3	January
4	February
5	March



6 April

7 May

8 June

9 July

"Consumable chemical fuel" for purposes of this HD I/M Regulation, means any solid, liquid, or gaseous matter, except hydrogen, that releases energy when consumed by an auxiliary power unit.

"Continuously connected remote on-board diagnostic device" or "CC-ROBD device": See definition for "remote on-board diagnostic device."

"Data link connector" is a multi-pin diagnostic connection port for vehicles, used to interface a testing device with the control modules of a given vehicle and access on-board diagnostics and live data streams.

"Defective" means a condition in which an emissions control system or an emissions control system component is malfunctioning due to age, wear, design defects, or causes other than tampering.

"Demonstration of Compliance" means the documents specified in section 2198.2(f).

"Designee" means a person authorized by a vehicle or fleet owner to electronically register for an account within the electronic reporting system to update and maintain the account information as necessary.

"Driver" has the same meaning as defined in California Vehicle Code section 305.

"Electronic reporting system" means CARB's online database and reporting system to collect and store all compliance test results and other pertinent regulatory information required as part of this HD I/M Regulation.

“Emission control label” means the label required by the “California Motor Vehicle Emission Control and Smog Index Label Specifications For 1978 Through 2003 Model Year Motorcycles, Light-, Medium- and Heavy-Duty Engines and Vehicles”, as incorporated by reference in title 13, CCR section 1965, as last amended on September 5, 2003, and as required by the “California Exhaust Emission Standards and Test Procedures for 2004 and Subsequent Model Heavy-Duty Diesel Engines and Vehicles”, as incorporated by reference in title 13, CCR section 1956.8, as last amended on April 18, 2019.

“Emissions control system” means the pollution control components, connections, and associated mechanisms on an engine at the time its engine family is certified, including the emission control label.

“Engine change” means the installation of an engine in a vehicle that is different from the vehicle manufacturer original configuration as certified by the United States Environmental Protection Agency (U.S. EPA) or CARB.

“Executive Order (EO)” means a document issued by the Executive Officer verifying that vehicles, engines, add-on components, and other devices meet requirements in CARB regulations and/or in California statute.

“Five-Day pass” means a once-a-year temporary pass, obtained ~~online~~through the electronic reporting system from the Executive Officer, to operate a vehicle in California for five consecutive calendar days without ~~obtaining a compliance certificate~~the Executive Officer deeming the vehicle compliant with the HD I/M Regulation.

“Fleet” means one (1) or more heavy-duty vehicles owned by the same person, agency, business, or other entity.

“Fleet facility” means an area where a vehicle primarily performs shipping and/or receiving operations, vehicle troubleshooting, repair, testing, and/or vehicle storage.

“Fraudulent” means any false statement or representation in any application, report, statement, or other document filed, maintained, or used for the purposes of compliance with this HD I/M Regulation.

“Freight contractor” means any person, excluding a broker, who enters into a contract with any party requiring the operation of a heavy-duty vehicle within California. This includes a shipper, receiver, carrier, or governmental agency as defined in this HD I/M Regulation, or any other intermediary party.

“Governmental agency” means any federal, state, or local government, including, public schools, water districts, or any other public entity with taxing authority.

“Gross vehicle weight rating (GVWR)” is as defined in California Vehicle Code section 350.

“HD I/M compliance certificate” means a certificate issued to a vehicle owner by the Executive Officer, obtained after demonstrating compliance with this HD I/M Regulation, confirming the vehicle can legally operate in California.

“HD I/M Regulation” means sections 2195 through 2199 of this Chapter.

“HD I/M tester” means a person who has a current and valid CARB-issued HD I/M tester credential, as defined in section 2197.1.

“HD I/M tester credential” means the accreditation provided by CARB to an individual trained in accordance with the requirements of section 2197.1 to conduct vehicle compliance testing such as ROBD inspections, smoke opacity inspections, and vehicle emissions control equipment inspections required by this HD I/M Regulation and submit vehicle inspection data to the electronic reporting system based on the results of the inspection.

“Heavy-duty vehicle” means any motor vehicle having a manufacturer's GVWR greater than 14,000 pounds.

“Heavy-duty zero-emission vehicle” means an on-road vehicle with a manufacturer’s GVWR greater than 14,000 ~~lbs.~~ pounds with a drivetrain that produces zero exhaust emissions of any criteria pollutant (or precursor pollutant) or greenhouse gas under any possible operational modes or conditions.

“Hybrid vehicle” means a vehicle that includes energy storage features (other than a conventional battery system or conventional flywheel) in addition to an internal combustion engine using a consumable chemical fuel.

~~“Independent marine terminal” means a terminal that operates independently from a seaport or seaport authority. An independent marine terminal has all the responsibilities of a terminal and a seaport.~~

"In-person field inspection" means any inspection conducted in accordance with the procedures specified in this HD I/M Regulation at an inspection site by a CARB inspector and/or peace officer.

"Inspection site" means an area including a random roadside location, a weigh station, a fleet facility, or other similar site used for conducting the heavy-duty vehicle test procedure, emissions control system inspection, or both.

"Inspector" means a CARB employee or authorized agent with the duty of enforcing Health and Safety Code Section 44152.

"Intermodal railyard" means any transportation facility owned or operated by a Class I Railroad that is primarily dedicated to the business of intermodal rail operations where cargo is transferred to or from a train and any other form of conveyance, such as train to ship, ship to train, train to truck, or truck to train.

~~"Issuance" means the act of mailing, providing digitally, or personally delivering an Executive Order, Compliance Certificate, Provisional Compliance Certificate, Five-Day Pass, Citation, or Notice to Submit to Testing to the owner.~~

"Malfunction indicator light (MIL)" means the light displaying the International Standards Organization (ISO) 2575 engine symbol F01, consistent with subdivision (d) of section 1971.1, title 13, CCR.

"Manufacturer" means any person who manufactures or assembles an engine, vehicle, or piece of equipment for sale in California. It also means the person who is granted certification for a certified engine, vehicle, or equipment.

"Manufacturer original configuration" means an engine configuration in which all parts and components are properly installed and in place, in accordance with the requirements specified in the certification application and the applicable engine family Executive Order.

~~"Marine or seaport terminals" means wharves, bulkheads, quays, piers, docks and other berthing locations and adjacent storage or adjacent areas and structures associated with the primary movement of cargo or materials from vessel to shore or shore to vessel including structures which are devoted to receiving, handling, holding, consolidating, loading, or delivery of waterborne shipments or passengers, including areas devoted to the maintenance of the terminal or equipment. For the purposes of this HD I/M Regulation, the term includes production or manufacturing areas, warehouses, storage facilities, and private or public businesses or entities located on or surrounded by seaport property.~~

“Motor carrier” means a registered owner, lessee, licensee, or bailee of any vehicle, who operates or directs the operation of any such vehicle on either a for-hire or not-for-hire basis.

“Motor home” means a single vehicular unit designed for human habitation to provide temporary living quarters for recreational or emergency occupancy and built on, or permanently attached to, a self-propelled motor vehicle chassis, chassis cab, or van, which becomes an integral part of the completed vehicle or a vehicle that exclusively tows a trailer that was originally designed for human habitation for recreational or emergency occupancy.

~~(12)~~(1) \_\_\_A converted vehicle shall be considered a motor home if the vehicle has permanently installed at least four of the following facilities: cooking, refrigeration or ice box, self-contained toilet, heating and/or air conditioning, a portable water supply system including a faucet and sink, a separate 110- to 125-volt electrical power supply and/or liquid petroleum gas supply.

“New motor vehicle” means a motor vehicle, the equitable or legal title to which has never been transferred to an ultimate purchaser in accordance with Health and Safety Code section 39042.

“Non-continuously connected remote on-board diagnostic device” or “NCC-ROBD device”: See definition for “remote on-board diagnostic device.”

“Non-OBD-equipped vehicle” means any vehicle that does not meet the definition of an OBD-equipped vehicle.

“Notice to Submit to Testing (NST)” means a notice requiring demonstration of compliance, as specified in section 2198.2(a).

“On-Board Diagnostics (OBD)~~”) system~~” means any system certified to meet the requirements of ~~title~~any of the following:

(1) Title 13, CCR, sections 1968.2;

(2) Title 13, CCR, section 1971.1; †

(3) Title 40, Code of Federal Regulations (CFR), section 86.010-18; † or

(4) Requirements equivalent requirements to (1) through (3) of this definition.

“OBD-equipped vehicle” means a heavy-duty vehicle for the following model years and fuel types equipped with an OBD system:

~~(13)~~(1) \_\_\_ Model year 2013 and newer diesel engines;

~~(14)~~(2) \_\_\_ Model year 2013 and newer diesel hybrid engines;

(3) \_\_\_ Model year 2018 and newer alternative fuel engines; and

~~(15)~~(4) \_\_\_ Model year 2018 and newer alternative fuel hybrid engines.

“Officer” means a uniformed member of the Department of the California Highway Patrol.

“Opacity” means the percentage of light obstructed from passage through an exhaust smoke plume.

“Outstanding enforcement action” means any unresolved civil, administrative, or criminal violation for which a notice was issued to a vehicle or a fleet owner for non-compliance with any in-use heavy duty vehicle requirements established by CARB.

“Owner” of a vehicle means the person or persons registered as the owner or lessee of a vehicle by the California Department of Motor Vehicles (DMV), or its equivalent in another state, province, or country; vehicle ownership is based on the vehicle registration document or the vehicle title, except as specified below:

~~(16)~~(1) \_\_\_ For vehicles that are owned by the federal government and not registered in any state or local jurisdiction, the owner shall be the department, agency, branch, or other entity of the United States, including the United States Postal Service, to which the vehicles in the fleet are assigned or which has responsibility for maintenance of the vehicles.

~~(17)~~(2) \_\_\_ For vehicles that are rented or leased from a business that is regularly engaged in the trade or business of renting or leasing motor vehicles without drivers, the owner shall be presumed to be the rental or leasing entity for purposes of compliance if:

(A) The rental or lease agreement for the vehicle is for a period of less than one year; or

(B) The rental or lease agreement for the vehicle is for a period of one year or longer, unless the terms of the rental or lease agreement or other equally reliable evidence identifies the party responsible for compliance with the HD I/M ~~¶~~Regulation to be the renting operator or lessee of the vehicle.

~~(18)~~(3) For the purpose of enforcement, if the rented or leased vehicle is inspected and cited for non-compliance with the HD I/M ~~¶~~Regulation and neither the operator of the vehicle nor the rental or leasing entity can produce evidence of the party responsible for compliance, the owner shall be presumed to be both the rental or leasing entity and the renting operator or lessee of the vehicle.

~~(19)~~(4) A financing company or a person that only provides financing to a third party in the form of "finance leases," as defined in California Uniform Commercial Code ~~§~~section 10103(a)(7), is not considered to own the vehicles that are financed.

~~"Payment" means a financial transaction intended as a recompense or restitution by bank check, money order, electronic bank transfer or credit card.~~

"Peace officer" means any law enforcement agencies' authorized representative as defined in California Penal Code, title 3, chapter 4.5, ~~§~~sections 830 et seq.

"Person" means an individual, corporation, business trust, estate, trust, partnership, Limited Liability Company, association, joint venture, government, governmental subdivision, agency, or instrumentality, public corporation, or any other legal or commercial entity.

"Provisional HD I/M compliance certificate" refers to a HD I/M compliance certificate issued to a vehicle owner ~~granted a one-time compliance time extension pursuant to section 2196.8 that allows~~indicates that the applicable vehicle ~~to~~may be operated through the vehicle's next compliance deadline without demonstrating full compliance with the requirements of the HD I/M ~~¶~~Regulation.

"Receiver" means a person or an entity that enters into a contractual agreement with a shipper, broker, or intermediary party to receive shipped goods, cargo, or commodities for the purpose of processing, packaging, retail sale or wholesale. This does not include the receipt of any goods by the final end-user or consumer.

"Referee" means an individual or entity authorized by CARB to provide independent evaluations of vehicles, and services to accommodate vehicles with inspection incompatibilities or compliance issues.

"Remote on-board diagnostic device" or "ROBD device" means an OBD data collection and submission system certified to meet the standards of ~~Appendix B~~ California Standards for Heavy-Duty Remote On-board Diagnostics Devices, adopted [INSERT DATE] and hereby incorporated by reference.

~~(20)~~(1) \_\_\_\_\_ "Certified continuously connected remote OBD (CC-ROBD) device" means a ROBD device, which may be hard-wired into the vehicle wire harness or plugged into the vehicle and functions automatically without human interaction to perform the compliance test.

~~(21)~~(2) \_\_\_\_\_ "Certified non-continuously connected remote OBD (NCC-ROBD) device" means a plug-in ROBD device that requires human interaction to perform the compliance testing.

"Removal from service" means the towing and storage of a vehicle under California Vehicle Code section 27159 and under the auspices of the California Highway Patrol.

"Rental or leasing company" means a business that rents or leases vehicles.

"Renter" means a person who rents ~~and/or~~ operates vehicles, engines, or equipment units not owned by that person.

"Repair facility" means any place where heavy-duty vehicles are repaired, rebuilt, reconditioned, or in any way maintained for the public at a fee, and fleet maintenance facilities.

"Roadside emissions monitoring device" means a CARB-authorized ~~emissions monitoring instrument that may include an emissions sampling system that for~~ remotely measures tailpipe measuring exhaust emissions, downloading OBD data, and/or captures collecting other information to identify a specific vehicle from pass-for identifying vehicles passing through vehiclesthe system.

"SAE J1667" means SAE Recommended Practice SAE J1667 "Snap-Acceleration Smoke Test Procedure for Heavy-Duty Diesel Powered Vehicles," as issued February 1996 ("1996-02"), which is incorporated herein by reference.

"Seaport facility" means any non-military independent marine terminal or any seaport where the seaport functions as a marine or seaport terminal.



- (1) "Independent marine terminal" means a marine terminal that operates independently from a seaport or seaport authority.
- (2) "Seaport" means the property where marine or seaport terminals are typically located for the loading and unloading of water-borne commerce onto and from ocean-going vessels. For purposes of this HD I/M Regulation, seaport does not include seaport property that is not related to or primarily used to engage in water-borne commerce. ~~"Seaport facility" means any non-military independent marine terminal or operational seaport where the seaport functions as a marine terminal operator.~~
- (3) "Marine or seaport terminals" means wharves, bulkheads, quays, piers, docks and other berthing locations and adjacent storage or adjacent areas and structures associated with the primary movement of cargo or materials from vessel to shore or shore to vessel including structures which are devoted to receiving, handling, holding, consolidating, loading, or delivery of waterborne shipments or passengers, including areas devoted to the maintenance of the terminal or equipment. For the purposes of this HD I/M Regulation, the term includes production or manufacturing areas, warehouses, storage facilities, and private or public businesses or entities located on or surrounded by seaport property.
- (4) "Seaport property" means publicly or privately owned property where a seaport is located. It is the property that includes the physical boundaries, either contiguous or non-contiguous, of the seaport and may include other properties owned by the seaport. For the purposes of this HD I/M Regulation, seaport property includes privately owned property located within a publicly or privately owned seaport property's boundaries.

"Shipper" means the person, party, or entity who usually owns or supplies the commodities transported by a carrier, or that has possession of freight prior to its transportation. This may include packing plants, storage facilities, warehouses, and distribution centers.

"Smoke meter" means a detection device used to measure the opacity of smoke in percent opacity.

"Smoke test" or "smoke opacity test" means a test of a vehicle's emissions for smoke opacity level conducted using the procedures specified in SAE J1667

Recommended Practice: Snap Acceleration Smoke Test Procedure for Heavy-Duty Powered Vehicles document incorporated herein by reference.

“Tampered” means missing, modified, disconnected, or improperly installed, or, as it applies to emission control labels, permanently obscured in accordance with Vehicle Code section 27156 and Health and Safety Code section 43008.6.

“Temporary operating permit” means a permit issued by the DMV, in accordance with California Vehicle Code section 4156.5, which allows a motorist to operate a vehicle for a limited time when all registration fees have been paid, but license plates ~~and~~/or registration stickers have not been issued.

“Test procedures” ~~are any~~means the methods or actions required to complete the tests specified in this HD I/M Regulation, for the purposes of compliance verification.

“Tier 1, 2, or Tier 3 engine” means an off-road compression-ignition engine certified to the applicable emission standards in CCR, title 13, section 2423(b)(1)(A) or section 2423(b)(2)(A).

“Tier 4 engine” means an off-road compression-ignition engine certified to the interim or final Tier 4 emission standards in CCR, title 13, section 2423(b)(1)(B) or section 2423(b)(2)(B).

“Ultimate purchaser” means, with respect to any new motor vehicle or new motor vehicle engine, the first person who in good faith purchases a new motor vehicle or new motor vehicle engine for purposes other than resale, as defined in Health and Safety Code section 39055.5.

“Unresolved citation” means a citation issued for violating the requirements of this HD I/M Regulation for which acceptable demonstration of compliance has not been provided or, if required, payment of all required penalties has not been received.

“Vehicle identification number (VIN)” means an alpha numeric code which has been permanently assigned by the manufacturer to a vehicle. The VIN is unique to each vehicle and may contain information deemed necessary by governing agencies. If a manufacturer cannot obtain a federal VIN from the National Highway Traffic Safety Administration for their vehicles, an alternative VIN approved by CARB may be used. Unless otherwise noted, the VIN and alternative VIN will follow formats specified in the Code of Federal Regulations 49, Chapter V, Parts 565, 566, and 571, which are incorporated herein by reference.

“Vendor” means any person who manufactures and/or applies for certification for a ROBD device. It also means the person to whom CARB grants certification for a certified ROBD device.

“Verified diesel emissions control strategy (VDECS)” means a diesel emission control strategy or system that has received approval from the Executive Officer according to the “Verification Procedure for In-Use Strategies to Control Emissions from Diesel Engines” in title 13, CCR, commencing with section 2700. Level 2 VDECS means the strategy or system reduces engine diesel particulate matter emissions by 50 to 84 percent. Level 3 VDECS means the strategy reduces engine particulate matter emissions by 85 percent or greater, or reduces engine emissions to less than or equal to 0.01 grams diesel particulate matter per brake horsepower-hour.

NOTE: Authority cited: Sections 39002, 39003, 39600, 39601, 43000, 43013, 43701, 44011.6, and 44152, Health and Safety Code. Reference: Sections 1797.84, 39042, 39055.5, 39042.5, 44154, and 44156, Health and Safety Code; Sections 165, 260, 305, 410, 505, 4156.5, 24019, 27153, 27156, 27158.1, 27158.2, and 27159, Vehicle Code.

#### **§ 2196. Owner and Operator Requirements.**

- (a) For each vehicle subject to the requirements of this HD I/M Regulation, the vehicle owner shall:
- (1) ~~Obtain a valid~~ Maintain compliance certificate, with the HD I/M Regulation as required underspecified in section 2196.1, and be able to present the certificate during inspections.
  - (2) Retain the necessary documentation regarding the current hiring freight contractor or broker in the vehicle, as specified in section 2197.3(e).
  - (3) Not operate any 1974 or newer vehicle in California unless it meets emissions standards at least as stringent as applicable federal emissions standards for the model year of the engine as specified by a properly installed and legible emission control label.
  - (4) Not operate any vehicle in California with tampered or defective emission control components.
  - (5) Not operate any vehicle in California with improperly installed and/or applied aftermarket parts as determined by the aftermarket parts label and Executive Order.

- (b) The vehicle owner or designee shall attest in the electronic reporting system the complete list of vehicles for which they are responsible, as specified in section 2197.2(b)(3).
- (c) If a vehicle is operating pursuant to an Executive Order or Emergency Declaration by the Governor of California, the vehicle owner and/or operator shall ensure copies of dispatch records and other supporting documentation verifying the vehicle is being used to support emergency operations for a specified time are retained and provided to CARB staff, inspectors, or peace officers as specified in section 2197.3(f).
- (d) Five-Day Pass. Prior to operating in California, a vehicle owner may obtain written approval from the Executive Officer to operate a vehicle for up to five consecutive calendar days without being subject to the requirements of section 2196-(a)(1) and (a)(2).
  - (1) Vehicle owners are eligible to apply for a Five-Day Pass prior to travelling to California once per calendar year per vehicle. The vehicle owner shall submit an application for a Five-Day Pass to the Executive Officer at least seven business days prior to the vehicle's planned travel or entry in California that includes the information specified in section 2197.2(g).
    - (A) The Executive Officer shall notify the owner of a determination of their request within five (5) business days and may issue a Five-Day Pass provided the owner has no outstanding enforcement actions and the vehicle has not been issued a Five-Day Pass within the last year.
  - (2) The owner shall keep the Five-Day Pass in the vehicle, in a location that is accessible to be able to present during inspections, at all times, while operating in California during the specified time frame.
- (e) Upon request from CARB staff, inspectors, or peace officers, the vehicle operator shall present a valid ~~compliance certificate, provisional compliance certificate,~~ temporary operating permit, or Five-Day Pass, if applicable, for the vehicle under inspection and documentation of the hiring entity, if any, as specified in subsection (a).

NOTE: Authority cited: Sections 39002, 39003, 39600, 39601, 43000, 43013, 43018, 43701, 44011.6, and 44152, Health and Safety Code; Sections 27158.1 and 27158.2, Vehicle Code. Reference: Section 44152, Health and Safety Code; Sections 27158.1 and 27158.2, Vehicle Code.

## § 2196.1. HD I/M Compliance Certificate and Registration.

- (a) A vehicle owner shall demonstrate compliance with the HD I/M Regulation as specified in section 2196.1(b)(1) ~~to through (b)(5) to receive a compliance certificate.~~
- (1) Upon a transfer of ownership or registration in California, the new owner shall demonstrate compliance by ensuring the requirements of section 2196.1(b)(1) ~~to through (b)(5)~~ have been met for the vehicle within the last 90 calendar days in advance of the transfer date ~~to receive a compliance certificate.~~ For example, if a new owner takes ownership of a vehicle on June 1, the new owner shall ~~receive a compliance certificate if~~ ensure vehicle compliance was demonstrated between March 3 and June 1.
- (2) Upon transfer of ownership of a new motor vehicle as defined in Health and Safety Code section 39042 to an ultimate purchaser, the new owner shall ~~obtain a demonstrate compliance certificate~~ within 30 calendar days of the vehicle purchase by meeting the requirements of section 2196.1(b)(1) ~~to through (b)(5)~~, with the exception of (b)(3).
- (3) For the purposes of this HD I/M ~~Regulation~~, the following conditions would not constitute a transfer of ownership:
- (A) A motor vehicle registered to a sole proprietor is transferred to the proprietor as owner.
- (B) The transfer is between companies the principal business of which is leasing motor vehicles, if there is no change in the lessee or operator of the motor vehicle or between the lessor and the person who has been, for at least one year, the lessee's operator of the motor vehicle.
- (C) The transfer is between the lessor and lessee of the motor vehicle, if there is no change in the lessee or operator of the motor vehicle.
- (D) An additional individual is added as a registered owner of the motor vehicle.
- (b) The Executive Officer shall deem a vehicle compliant ~~and issue a compliance certificate to the registered owner of a vehicle~~ within 72 hours with the HD I/M Regulation upon finding all the following conditions are met:

- (1) The owner has paid to CARB the compliance fee as specified in subsection (f).
  - (2) The owner has reported to CARB the owner and vehicle information required under section 2197.2(b).
  - (3) The owner has demonstrated compliance with the periodic vehicle emission testing requirements by submitting a passing compliance test as specified in section 2196.2.
  - (4) The owner has no outstanding enforcement actions on the vehicle in question.
  - (5) The owner has no outstanding emissions or OBD-related recalls on the vehicle in question.
- (c) The Executive Officer may deem a vehicle compliant and ~~issue a compliance certificate to the registered owner of a vehicle~~ if the referee identifies inspection incompatibilities or other technical issues that cannot be resolved.
- (d) A vehicle subject to this HD I/M Regulation shall be subject to ~~semi-annual compliance deadlines, except as specified below:~~ the periodic vehicle emission testing requirements specified in section 2196.2 according to the frequencies specified below.
- (1) Motor homes registered in California and agricultural vehicles shall be subject to an annual compliance deadline.
  - (2) ~~The Executive Officer shall issue a~~ For the first three years of periodic vehicle emission testing requirements specified in section 2196.2, all vehicles other than those specified in (1) shall be subject to semi-annual compliance certificate to the registered owner through a vehicle's next ~~deadlines.~~ deadlines.
  - (3) ~~Three years following the effective date of periodic vehicle emission testing requirements specified in section 2196.2, an OBD-equipped vehicle other those specified in (1) shall be subject to quarterly compliance deadline (more than 90 calendar days away) if~~ deadlines.

- (e) If a vehicle owner demonstrates vehicle compliance is demonstrated within 90 calendar days in advance or less of the vehicle's immediate upcoming compliance deadline, the Executive Officer shall deem a vehicle compliant with the HD I/M Regulation up to the vehicle's subsequent compliance deadline as long as the additional conditions specified In section 2196.1(b) are met. For example, if an owner of a vehicle with a semi-annual compliance deadline demonstrates compliance between March 3 and May 31 in advance of a June 1 immediate upcoming compliance deadline, ~~a compliance certificate could be issued through the June 1 compliance deadline~~ the vehicle shall be deemed compliant with the HD I/M Regulation up to and including December 1 compliance deadline.
- (1) ~~The Executive Officer shall issue a vehicle owner demonstrates vehicle compliance certificate through more than 90 calendar days before the vehicle's immediate upcoming compliance deadline if compliance is demonstrated more than 90 calendar days in advance of,~~ the Executive Officer shall deem a vehicle's vehicle compliant with the HD I/M Regulation up to the vehicle's immediate upcoming compliance deadline as long as the additional conditions specified In section 2196.1(b) are met. For example, if an owner demonstrates compliance before March 3 in advance of a June 1 immediate upcoming compliance deadline, ~~a compliance certificate could be issued through the June 1 compliance deadline~~ the vehicle shall be deemed compliant with the HD I/M Regulation up to and including June 1.
- (f) Compliance Fee. The Executive Officer shall assess a compliance fee of \$30.00 to the vehicle owner for each registered vehicle prior to the first demonstration of compliance certificate an owner receives for a vehicle in a given compliance year. The Executive Officer shall adjust the compliance fee annually to reflect the annual average California Consumer Price Index (CCPI) as updated by the Department of Industrial Relations, and shall publish the adjusted compliance fee by July 1<sup>st</sup> of each year on CARB's website.
- (g) The Executive Officer shall notify the DMV a vehicle has been deemed compliant by CARB with the HD I/M ~~Regulation~~ for registration purposes if compliance with section 2196.1(b)(1) ~~to through~~ (b)(5) has been demonstrated for the vehicle within 90 calendar days in advance of the registration date. The Executive Officer shall not request DMV to verify compliance with the HD I/M Regulation for vehicle registration purposes under the conditions specified in section 2196.1(a)(2) and (a)(3) above.
- (h) CARB may publicly disclose the compliance status of vehicles operating in California.

NOTE: Authority cited: Sections 39600, 39601, 43000, 43013, 43018, 43701, 44011.6, 44152, and 44154, Health and Safety Code; Sections 4000.17, Vehicle Code.  
Reference: Sections 39042, 44152, and 44154, Health and Safety Code; Section 4000.17, Vehicle Code.

### **§ 2196.2. Periodic Vehicle Emission Testing Requirements**

- (a) Applicability. The requirements of this section shall apply to each vehicle subject to this HD I/M Regulation.
- (b) The owner shall ensure the vehicle is tested via one of the following test procedures:
  - (1) OBD-equipped vehicles shall satisfy the periodic testing requirements through the completion of a passing compliance test as specified in section 2196.3.
  - (2) Non-OBD-equipped vehicles shall satisfy the periodic testing requirements through the completion of a passing compliance test as specified in section 2196.4.
- (c) If the vehicle owner, HD I/M tester, or CARB determines that the test emission results do not pass, the Executive Officer shall not find that the vehicle has fulfilled the periodic testing requirement of this section. The vehicle owner may submit a new vehicle compliance test prior to a vehicle's compliance deadline to demonstrate compliance with this section.

NOTE: Authority cited: Sections 39002, 39003, 39600, 39601, 43000, 43013, 43018, 43701, 44011.6, and 44152, Health and Safety Code. Reference: Section 44152, Health and Safety Code; Section 27153, Vehicle Code.

### **§ 2196.3. Vehicle Compliance Test Methods for OBD-Equipped Vehicles.**

- (a) An owner of an OBD-equipped vehicle or a person under the direction of the vehicle owner shall ensure the vehicle is tested using one of the vehicle compliance test methods specified as follows:
  - (1) A certified CC-ROBD device that meets the requirements of Appendix B California Standards for Heavy-Duty Remote On-board Diagnostic Devices.



- (2) A certified NCC-ROBD device that meets the requirements of Appendix B California Standards for Heavy-Duty Remote On-board Diagnostic Devices that is registered and operated by a HD I/M tester.
  - (3) Prior to the effective date of the Periodic Vehicle Emission Testing Requirements (section 2196.2) as specified in section 2195(d), submission of vehicle compliance tests shall meet the requirements of title 13, section 2193(f) of the Periodic Smoke Inspection Program and be performed and submitted by a HD I/M tester.
- (b) An OBD vehicle compliance test submitted to the electronic reporting system shall meet the requirements of section 2197.2(c).
- (c) Criteria for ~~passing~~ a compliance test. The Executive Officer shall determine that an OBD-equipped vehicle has ~~failed~~passed a compliance test if ~~one or more~~none of the following conditions occur:
- (1) The vehicle's OBD system reports the MIL as commanded on;
  - (2) The vehicle's OBD system reports an active ~~and/or~~ permanent diagnostic trouble code (DTC);
  - (3) The vehicle's OBD data indicates the OBD system has not yet operated sufficiently to determine the presence or absence of a DTC;
  - (4) The vehicle's OBD data collected during a compliance test is inconsistent with the OBD data profile from vehicles with the same make, ~~and/or~~ model year generated using all valid compliance test records submitted to the Executive Officer;
  - (5) The OBD system data does not match the original equipment manufacturer (OEM) or a CARB-exempted OBD software configuration. The OBD software configuration shall include the specific OBD standard to which the vehicle has been certified, the Calibration Verification Number(s) (CVN), and the Calibration Identification Number(s) (Cal ID); or
  - (6) The test submission does not meet the requirements specified in section 2196.3(a) or (b).

NOTE: Authority cited: Sections 39002, 39003, 39600, 39601, 43000, 43013, 43018, 43701, 44011.6, and 44152, Health and Safety Code. Reference: Section 44152, Health and Safety Code; Section 27153, Vehicle Code.

#### **§ 2196.4. Vehicle Compliance Test Method for Non-OBD-Equipped Vehicles.**

- (a) An owner of a non-OBD-equipped vehicle or a person under the direction of the vehicle owner shall ensure that a HD I/M tester performs and submits a smoke opacity test performed in accordance with the SAE J1667 test procedure, which is incorporated herein by reference, and a vehicle emissions control equipment inspection as specified in section 2198.
  - (1) Non-OBD-equipped alternative fuel vehicles shall be exempt from the requirement of a submission of a SAE J1667 opacity test as part of the vehicle compliance test.
- (b) Criteria for ~~f~~passing a compliance test. -The Executive Officer shall determine that a non-OBD-equipped vehicle has ~~failed~~passed the vehicle compliance test if ~~one or more~~none of the following conditions occur:
  - (1) The vehicle fails to meet one or more of the requirements of the vehicle emissions control equipment inspection specified in section 2198.
  - (2) The vehicle exceeds the smoke opacity ~~limits~~standards as specified in section 2196.6.
  - (3) The test submission does not meet the requirements of section 2196.4(a) ~~and~~or the reporting requirements specified in section 2197.2(d) and (e), respectively, for the smoke opacity test and vehicle emissions control inspection.

NOTE: Authority cited: Sections 39002, 39003, 39600, 39601, 43000, 43013, 43018, 43701, 44011.6, and 44152, Health and Safety Code. Reference: Section 44152, Health and Safety Code; Section 27153, Vehicle Code.

#### **§ 2196.5. Roadside Emissions Monitoring Devices.**

- (a) All heavy-duty vehicles applicable to this HD I/M Regulation operating in California are subject to on-road emissions monitoring through a network of CARB-authorized roadside emissions monitoring devices. For a vehicle passing through a roadside emissions monitoring device, the Executive Officer may issue a Notice to Submit to Testing if one of the following criteria is met:

- (1) OBD-Equipped Vehicles.
  - (A) A roadside emissions monitoring device records an OBD-equipped vehicle with a PM emissions measurement that corresponds to exceeding the equivalent OBD trigger threshold for illuminating the MIL, as described in title 13, CCR, section 1971.1 (e)(8.2.1);
  - (B) A roadside emissions monitoring device records an OBD-equipped vehicle with a NO<sub>x</sub> emissions measurement that corresponds to exceeding the equivalent OBD trigger threshold for illuminating the MIL, as described in title 13, CCR, section 1971.1 (e)(6.2.1);
- (2) Non-OBD-Equipped Vehicles.
  - (A) A roadside emissions monitoring device records a non-OBD-equipped vehicle with a PM emissions measurement that corresponds to exceeding the equivalent smoke opacity standard, as specified in section 2196.6.

NOTE: Authority cited: Sections 39002, 39003, 39600, 39601, 43000, 43013, 43018, 43701, 44011.6, and 44152, Health and Safety Code; Sections 27153 and 24019, Vehicle Code. Reference: Section 44152, Health and Safety Code; Sections 27153 and 24019, Vehicle Code.

### **§ 2196.6. Smoke Opacity Standards.**

- (a) When tested using the SAE J1667 smoke opacity test procedure, a vehicle equipped with an on-road engine used for motive power shall not exceed the smoke opacity standards specified below:
  - (1) 5% for any heavy-duty vehicle powered by a 2007 or subsequent model-year diesel engine.
  - (2) 5% for any heavy-duty vehicle required to be equipped or retrofitted with a Level 3 VDECs<sub>S</sub>, regardless of its diesel engine model-year.
  - (3) 20% for any heavy-duty vehicle equipped or retrofitted with a Level 2 VDECs<sub>S</sub>, regardless of its diesel engine model-year.
  - (4) 20% for any heavy-duty vehicle powered by a 1997 to 2006 model-year diesel engine.

- (5) 30% for any heavy-duty vehicle powered by a 1991 to 1996 model-year diesel engine.
  - (6) 40% for any heavy-duty vehicle powered by a pre-1991 model-year diesel engine.
- (b) When tested using the SAE J1667 smoke opacity test procedure, a vehicle equipped with an off-road engine used for motive power shall not exceed the smoke opacity standards specified below:
- ~~(1) 40% for Tier 1 engines.~~
  - ~~(2) 30% for Tier 2 and 3 engines.~~
  - (1) 5% for any heavy-duty vehicle powered with an off-road engine certified with a diesel particulate filter.
  - (2) 5% for any heavy-duty vehicle powered with an off-road engine retrofitted with a Level 3 VDECS.
  - (3) 10% for any heavy-duty vehicle powered with an off-road Tier 4 engine (interim and Tier 4 or final engines) that is not equipped with a diesel particulate filter or is not retrofitted with a Level 3 VDECS.
  - (4) 30% for any heavy-duty vehicle powered with an off-road Tier 2 or Tier 3 engine not retrofitted with a Level 3 VDECS.
  - (5) 40% for any heavy-duty vehicle powered with an off-road Tier 1 engine not retrofitted with a Level 3 VDECS.

NOTE: Authority cited: Sections 39002, 39003, 39600, 39601, 43000, 43013, 43018, 43701, 44011.6, and 44152, Health and Safety Code; Section 27153, Vehicle Code. Reference: Sections 43701, 44011.6, and 44152, Health and Safety Code; Section 27153, Vehicle Code.

**§ 2196.7. Referee Services.**

- (a) This section applies to any heavy-duty vehicle owner whose vehicle is directed for a referee inspection by the Executive Officer due to any of the following circumstances:

- (1) A law enforcement agency requests the Executive Officer to direct a vehicle to referee services.
  - (2) The vehicle owner has submitted OBD data collected during a compliance test that is inconsistent with the OBD data profile from vehicles with the same make, ~~and~~/or model year.
  - (3) The Executive Officer has issued the vehicle owner a Notice to Submit to Testing under section 2196.5.
  - (4) The vehicle owner is suspected of operating with tampered emission control components.
  - (5) The vehicle owner has failed to submit required testing data.
  - (6) The vehicle owner has unresolved citations related to this HD I/M Regulation.
  - (7) Services are required for auditing, program validation, ~~and~~/or demonstration of compliance purposes.
  - (8) The vehicle condition makes a typical inspection difficult due to design, malfunctioning condition, or inspection incompatibility.
  - (9) CARB requires the verification of a submitted repair invoice, work order, or other proof of compliance documentation.
- (b) If directed by the Executive Officer to the referee, the vehicle owner shall pass a referee-performed vehicle compliance test as specified in section 2196.7(d) prior to the vehicle being deemed compliant with the requirements of this HD I/M Regulation.
- (c) The vehicle owner shall complete a referee inspection under the following circumstances:
- (1) The vehicle owner disputes an inspection result and requests an independent evaluation of a vehicle's compliance status.
  - (2) The vehicle has an engine or emission control configuration that does not meet the original certified configuration required by U. S. EPA or CARB upon installation or initial sale of the vehicle. Such vehicles include the following:

- (A) Vehicles equipped with an engine change.
  - (B) Vehicles equipped with an alternative fuel retrofit system.
  - (3) The vehicle has been converted to a motor home.
  - (4) The vehicle owner requests a compliance time extension as specified in section 2196.8.
- (d) The referee shall inspect the vehicle for HD I/M compliance and to determine if its emissions control system has been tampered with, and/or is defective. The inspection may include the following:
- (1) A vehicle emissions control equipment inspection as specified in section 2198.
  - (2) An OBD inspection as specified in section 2196.3 on applicable vehicles.
  - (3) A SAE J1667 opacity test as specified in section 2196.4.
  - (4) Verification of compliance with the applicable requirements specified in 2196.1(b).
- (e) The referee shall recommend ~~withholding the Executive Officer deem a vehicle out of compliance certificate with the HD I/M Regulation if a vehicle fails any of does not meet the applicable criteria set forth for passing a compliance test as specified in sections 2196.3 and 2196.4 unless, or fails to meet the requirements of 2196.1(b).~~ The referee may recommend the Executive Officer deem a vehicle in compliance if the referee identifies inspection incompatibilities or other technical issues that cannot be resolved.

NOTE: Authority cited: Sections 39002, 39003, 39600, 39601, 43000, 43013, 43018, 43701, 44011.6, and 44152, Health and Safety Code; Section 27153, Vehicle Code. Reference: Sections 43701, 44011.6, and 44152, Health and Safety Code; Sections 24019 and 27153, Vehicle Code.

**§ 2196.8. Parts Unavailability Compliance Time Extension.**

- (a) A vehicle owner ~~of a fleet of ten or fewer vehicles~~ may make a request to the Executive Officer for a vehicle compliance time extension through the referee if

parts to bring a vehicle back into compliance are not available to complete the needed repairs.

(b) Upon making a compliance time extension request, the vehicle owner shall provide the documentation specified in section 2197.2(hi) to demonstrate that a good-faith effort has been made to bring the vehicle into compliance ~~by the compliance deadline.~~

(c) ~~The Executive Officer may grant a one-time compliance extension to eligible vehicles upon the referee verifying~~ shall verify the following owner and the vehicle requirements and ~~recommending the vehicle receive a compliance extension:~~

(1) ~~Fleet eligibility as specified in subsection (a)~~ make a recommendation to the Executive Officer on the issuance of this section. the compliance time extension:

~~(2)~~(1) The vehicle's emissions control systems have not been tampered.

~~(3)~~(2) The vehicle has no outstanding emissions or OBD-related recalls.

~~(4)~~(3) The vehicle owner has no unresolved citations.

~~(5)~~ — ~~The vehicle has not been granted a time extension previously as per this section.~~

~~(6)~~(4) The vehicle owner has made a good-faith effort seeking timely repair for the vehicle as evidenced with proof of an ~~initial~~ effort to contact at least one repair facilities ~~no later than seven days~~ facility as specified in section 2197.2(i) after the non-compliance issue was first identified.

~~(7)~~(5) Vehicle parts are not available to bring the vehicle back to a compliant state.

- (d) Following a recommendation made by the referee, the Executive Officer may grant a compliance time extension to an owner of an eligible vehicle. The Executive Officer shall base their decision on whether the documentation provided by the vehicle owner in subsection (b) and the referee recommendation in subsection (c) demonstrate that the owner has made a good-faith effort to bring the vehicle into compliance and the vehicle parts remain unavailable to do so. Upon approval of a compliance time extension request, the Executive Officer shall ~~issue the owner a provisional compliance certificate allowing~~ allow operation of the vehicle up to the vehicle's next compliance deadline and issue the vehicle owner a provisional HD I/M compliance certificate for the eligible vehicle.

NOTE: Authority cited: Sections 39002, 39003, 39600, 39601, 43000, 43013, 43018, 43701, 44011.6, and 44152, Health and Safety Code; Section 27153, Vehicle Code. Reference: Section 44152, Health and Safety Code.

### **§ 2197. Freight Contractor, Broker, and Applicable Freight Facility Requirements.**

- (a) Any freight contractor shall only contract with compliant vehicles or fleets and comply with the recordkeeping requirements specified in section 2197.3(b). In the case of contracts with intermediary parties where vehicle or fleet wide compliance cannot be verified by the freight contractor, the freight contractor shall comply with the recordkeeping requirements specified in section 2197.3(b)(2).
- (b) Any broker shall only arrange transportation within California through motor carriers with compliant vehicles or fleets and maintain records in accordance with the recordkeeping requirements specified in section 2197.3(c).
- (c) Any applicable freight facility shall ~~either:~~ adhere to one of the following requirements each calendar year, and maintain an attestation as outlined in section 2197.3(d)(1):
- (1) Ensure that only compliant vehicles will enter and operate on their property. ~~-Compliance can be verified for each incoming vehicle at the time of entry by requesting a valid CARB HD I/M compliance certificate for each vehicle or by checking identifiable information through CARB's electronic reporting system; or~~
  - (2) Maintain records of all vehicles that enter the applicable freight facility property that are not compliant with this HD I/M Regulation, in accordance with the recordkeeping requirements specified in section 2197.3(d)(2).



(d) In lieu of the requirements specified in section 2197(c), alternative compliance verification terminals may choose to ensure that vehicles entering and operating on their property have demonstrated compliance with the HD I/M Regulation no more than one year prior to the date of entry, and maintain an attestation as outlined in section 2197.3(d)(1).

(e) The requirements detailed in sections 2197(c) and 2197(d) do not apply to applicable freight facilities when vehicles entering their properties are delivering goods or providing services to the facility or a facility employee as the final end-user or consumer of the good or service.

NOTE: Authority cited: Sections 39002, 39003, 39600, 39601, 43000, 43013, 43018, 43701, 44011.6, and 44152, Health and Safety Code; Section 27153, Vehicle Code. Reference: Section 44152, Health and Safety Code.

### **§ 2197.1 HD I/M Tester Requirements.**

(a) To conduct compliance tests and inspections, and to submit data to the electronic reporting system, as described in sections 2196.3 and 2196.4 of this HD I/M Regulation, individuals shall obtain a HD I/M tester credential. The Executive Officer shall issue the candidate a HD I/M tester credential upon demonstration that the candidate has satisfied (1) through (3) below:

- (1) Successfully completed a training course developed by CARB, as evidenced by a valid certificate of completion.
- (2) Obtained a passing score of 80 percent or greater on the training course exam administered by CARB.
- (3) Has not previously had their HD I/M tester credential revoked under subsection (e) of this section.

(b) The training course may include the following modules:

- (1) Regulatory Module. Training and information on the requirements of the Heavy-Duty Inspection and Maintenance regulation, including periodic submission requirements, vehicle requirements, and violations.
- (2) Opacity Module. Training and information on how to perform a Snap-Acceleration Smoke Test Procedure for Heavy-Duty Diesel-Powered Vehicles pursuant to SAE J1667.

~~(A) In lieu of this training module, CARB may accept a~~Prior to the effective date of the Periodic Vehicle Emission Testing Requirements (section 2196.2) as specified in section 2195(d), CARB shall accept one of the following in lieu of the training requirement to complete the Opacity Module:

~~(A)1.~~ A certificate of completion of the California Council on Diesel Education and Technology HDVIP/PSIP Course (CCDET I); or

2. A certificate of completion from a CARB-approved course as specified by the requirements of title 13, section 2193(g) of the Periodic Smoke Inspection Program.

(3) OBD Module. Training and information on how to perform an OBD test, required OBD data, DTCs, and acceptable submission formats.

(4) Visual Inspection Methods Module. Training and information on how to properly conduct the vehicle emissions control equipment inspection on vehicles subject to the requirements of this HD I/M Regulation.

~~(A) Challenge Exam. In lieu of this training module, individuals can request a one-time challenge exam. A passing score of 80 percent or greater on the challenge exam will exempt the individual from the requirement to complete the Visual Inspection Methods Module.~~

(c) A HD I/M tester credential shall be valid for two years from the date of the successful completion of the training course including receipt of a passing score on the CARB administered training exam. To maintain a current and valid HD I/M tester credential, individuals shall retake the training course and pass any required examinations prior to or upon expiration.

(d) Data Reporting and Penalties. The accuracy of any data submitted to CARB is the responsibility of the owner of the vehicle for which tests are being conducted, the HD I/M tester conducting tests and inspections, and/or any other entity involved in this process. Failure to ensure that the reported data is accurate and correct may result in penalties as specified in section 2198.2(b) for HD I/M testers, vehicle owners, and/or other entities involved.

- (e) Credential Revocation. The Executive Officer may revoke a HD I/M tester credential for violating any provision of this HD I/M Regulation, including the fraudulent submission of data, or not properly adhering to the test, inspection and/or data submission procedures. The Executive Officer may prohibit the HD I/M tester or any other entity in coordination with the HD I/M tester from conducting future tests.

NOTE: Authority cited: Sections 39002, 39003, 39600, 39601, 43000, 43013, 43018, 43701, 44011.6, and 44152, Health and Safety Code; Section 27153, Vehicle Code. Reference: Section 44152, Health and Safety Code.

### § 2197.2 Reporting Requirements.

- (a) Various sections of this HD I/M Regulation require affected entities to report information to CARB. Such requirements are described in this section.
  - (1) Submitting to CARB a false oral or written statement, including a material misstatement or a material omission, in connection with the requirements of this reporting section is a violation of this HD I/M Regulation that may subject the submitter to penalties as described in section 2198.2(d).
  - (2) The Executive Officer may revoke a vehicle's HD I/M compliant status or refuse to issuereem a vehicle in compliance certificate with the HD I/M Regulation in response to one or more violations of this reporting section.
- (b) Vehicle owners or a designee shall report pertinent owner and vehicle identifying information specified by the Executive Officer to the electronic reporting system, including:
  - (1) Owner information.
    - (A) Registered Owner Name.
    - (B) Entity Name.
    - (C) Fleet/Secondary Name (if applicable).
    - (D) Designee (if applicable).
    - (E) Title of Designee (if applicable).

- (F) Contact Email Address.
  - (G) Contact Mailing Address.
  - (H) Contact Phone Number.
  - (I) Entity Physical Address.
  - (J) United States Department of Transportation (U.S. DOT) number (if applicable).
  - (K) California Motor Carriers Permit (MCP) ID (if applicable).
  - (L) Public Utilities Commission (PUC) ID (if applicable).
- (2) Vehicle Information.
- (A) VIN.
  - (B) License plate number.
  - (C) State in which the vehicle is registered with a DMV.
  - (D) Vehicle make.
  - (E) Vehicle model.
  - (F) Vehicle model year.
  - (G) Engine fuel type.
  - (H) GVWR.
- (3) A vehicle owner or designee shall attest, in the electronic reporting system, to the complete list of vehicles subject to this HD I/M Regulation for which they are responsible.
- (A) A vehicle owner or designee shall verify and attest the list of vehicles claimed is true and accurate and updated in accordance with the following requirements:

1. The vehicle owner or designee shall add each vehicle to the list of applicable vehicles within 30 calendar days of purchase.
2. The vehicle owner or designee shall remove each vehicle from the list of applicable vehicles within 30 calendar days of sale.

(B) Upon attesting responsibility for the complete list of vehicles, the Executive Officer shall provide the vehicle owner or designee with an Affirmation of Fleet Wide Compliance within 72 hours, if and when the vehicle owner or designee has demonstrated that each vehicle within the fleet complies with the requirements of this HD I/M Regulation ~~and each vehicle within the fleet has a current, valid compliance certificate.~~

(c) Required OBD Testing Data

- (1) OBD data as specified in subsection (E)(6.1) of PART II, ~~Appendix B~~ California Standards for Heavy-Duty Remote On-board Diagnostics Devices shall be submitted via the file format specified in subsection (E)(4) of PART II, ~~Appendix B~~ California Standards for Heavy-Duty Remote On-board Diagnostic Devices for each OBD vehicle compliance test specified in section 2196.3(a)(1) and (2).
- (2) OBD data as specified in section 2193(f) shall be submitted for each OBD vehicle compliance test specified in section 2196.3(a)(3).

(d) Required Smoke Opacity Testing Data.

- (1) For each vehicle subject to the smoke opacity testing requirements of section 2196.4, and for each smoke opacity test, the vehicle owner shall cause to be submitted through a HD I/M tester all of the following data and information to CARB.
  - (A) VIN.
  - (B) Odometer reading.
  - (C) The initial smoke test opacity levels (for three successive test readings), the average of the three snap-acceleration test cycles, and the range.

- (D) The name and tester identification number of the HD I/M tester who performed the smoke opacity inspection.
  - (E) Smoke meter brand name, make, model.
  - (F) The dates of the last calibration of the opacity meter.
  - (G) Test date.
- (e) The vehicle emissions control equipment inspections specified in section 2198 shall be submitted to the electronic reporting system via a file template available on CARB's website ([arb.ca.gov](http://arb.ca.gov)).
- (f) HD I/M Testers.
- (1) HD I/M testers shall provide the following information to CARB prior to performing and submitting compliance test results.
    - (A) Tester name.
    - (B) HD I/M tester credential number.
    - (C) Date accredited.
    - (D) Tester mailing address.
    - (E) Tester cellular phone number.
    - (F) Email address.
    - (G) Entity name.
    - (H) Entity physical address.
    - (I) Entity phone number.
    - (J) Certified NCC-ROBD device registered to tester (if applicable).
- (g) Five-Day Pass. When applying for a Five-Day pass, a vehicle owner shall submit an application form to the electronic reporting system. The owner shall submit the following information:

- (1) Request date.
  - (2) Registered owner's name.
  - (3) Street address, city, state, zip code of owner.
  - (4) Telephone number of owner.
  - (5) Email address of owner (if available).
  - (6) VIN.
  - (7) License plate number and state of registration.
  - (8) Date(s) the vehicle will begin travel, or enter California if traveling from out of state location.
  - (9) Origin and destination travel information.
- (h) ROBD Device Vendors: ROBD device vendors granted certification to use devices to test vehicles for compliance with the requirements of section 2196.3 shall report the data fields specified in Appendix B California Standards for Heavy-Duty Remote On-board Diagnostic Devices Part III, section E to the electronic reporting system.
- (i) Parts Unavailability Compliance Time Extensions. When applying for a compliance time extension due to an unavailability of parts ~~issue~~, a vehicle owner shall submit the following information from at least ~~three~~one repair ~~shops~~facility.
- (1) The repair(s) that is needed to correct the vehicle's non-compliance issue.
  - (2) The part(s) needed to repair the compliance issue.
  - (3) What part(s) needed to repair the compliance issue are unavailable.
  - (4) The reason(s) as to why the part(s) are unavailable.
  - (5) An estimate as to when the parts are expected to become available.

- (6) Repair ~~shops~~ facility contacted in an effort to complete the needed vehicle repairs.
  - (A) Business name.
  - (B) Business address.
  - (C) Business contact information.
- (7) Evidence of an ~~initial~~ effort to contact repair facilities ~~no later than seven business days~~ after the non-compliance issue was first identified.

Note: Authority cited: Sections 39002, 39003, 39600, 39601, 43000, 43013, 43018, 43701, 44011.6, and 44152, Health and Safety Code; Section 27153, Vehicle Code. Reference: Section 44152, Health and Safety Code.

### § 2197.3. Recordkeeping Requirements.

- (a) Various sections of this HD I/M Regulation require affected entities to adhere to recordkeeping requirements and provide records to CARB upon request. Such requirements are described in this section. Unless otherwise specified, affected entities shall retain the specified records for a minimum of five years from date of entry, and shall provide them to CARB staff, inspectors, or peace officers within 72 hours of official written or oral request.
- (b) Freight contractors shall retain the following records at the business location:
  - (1) For each heavy-duty vehicle subject to this HD I/M Regulation that is contracted by the freight contractor, the freight contractor shall keep the documentation described below:
    - (A) A ~~current and valid~~ copy of the ~~vehicle~~ vehicle's HD I/M compliance certificate, valid at the time of dispatch, for each vehicle dispatched to, from, or within California; or
    - (B) An Affirmation of Fleet Wide Compliance for the fleet dispatching vehicles to California to which the vehicle belongs. -The Affirmation of Fleet Wide Compliance shall be:
      - 1. Obtained prior to any contract requiring dispatch to California; and



2. Dated within 12 months of the date the vehicle is contracted by the freight contractor.
- (2) Records of transactions and agreements between shippers, receivers, brokers, and motor carriers requiring the operation of heavy-duty vehicles in California. Documentation shall include all the following information:
    - (A) The shipper or receiver initiating the transaction requiring transport.
    - (B) The motor carrier or broker who hired or dispatched the vehicle.
    - (C) The vehicle dispatched.
- (c) Brokers, as specified in section 2197, shall retain the following records for each motor carrier or vehicle owner brokered with, for the purpose of transporting freight to, from, or within California resulting from a contractual agreement with the broker:
- (1) Verification of compliance, either in the form of:
    - (A) ~~A current and valid copy of the vehicle~~vehicle's HD I/M compliance certificate, valid at the time of dispatch, for each vehicle dispatched to, from, or within California; or
    - (B) An Affirmation of Fleet Wide Compliance for a fleet dispatching vehicles to, from, or within California, which shall be:
      1. Obtained prior to any contract requiring dispatch to, from, or within California; and,
      2. Dated within 12 months of the date the vehicle is contracted by the Broker.
  - (2) Dispatching motor carrier:
    - (A) Business name of dispatching motor carrier.
    - (B) Contact name.

- (C) Street address, city, state, zip code of the dispatching motor carrier.
  - (D) Phone number of the dispatching motor carrier.
- (d) Applicable freight facilities shall retain the following records ~~for each vehicle for which compliance has not been verified, as specified in section 2197(c):~~
- (1) For each calendar year, the applicable freight facility must retain a document attesting the following:
    - (A) The requirement the applicable freight facility intends to comply with, as outlined in section 2197(c)(1), 2197(c)(2), or 2197(d), for the duration of the calendar year.
    - (B) The date the attestation was made.
  - (2) For applicable freight facilities choosing the compliance option outlined in 2197(c)(2), maintain the following records for each vehicle for which compliance has not been verified:
    - ~~(A)~~ (A) Dispatching motor carrier:
      - ~~(A)~~ 1. Entity name of dispatching motor carrier.
      - ~~(B)~~ 2. Contact name.
      - ~~(C)~~ 3. Street address, city, state, zip code of the dispatching motor carrier.
      - ~~(D)~~ 4. Phone number of the dispatching motor carrier.
      - ~~(E)~~ 5. Bill of lading, load tender or any other tracking number linked to the specific load.
    - ~~(2)~~ (B) Heavy-Duty Vehicle Information ~~Information~~ duty vehicle information:
      - ~~(A)~~ 1. Entry date and time.
      - ~~(B)~~ 2. Registered owner's name.

~~(C)~~3. Operator's name.

~~(D)~~4. License plate number and state of issuance.

~~(E)~~5. VIN.

- (e) Drivers and vehicle owners of heavy-duty vehicles operating for commercial purposes within California, shall ensure that the following forms of documentation are available in the vehicle. Drivers or vehicle owners shall provide the following forms of documentation to CARB staff, inspectors, or peace officers immediately upon request:
- (1) Documentation relating to the current hiring freight contractor or broker, including
    - (A) Entity name.
    - (B) Contact name.
    - (C) Contact phone number and email address.
    - (D) Street address, city, state, zip code of the hiring entity.
    - (E) Copy of contract for the specific load carried by the driver.
- (f) Drivers and vehicle owners of heavy-duty vehicles operating under an exemption pursuant to a declared emergency, as specified in section 2195(c) of this HD I/M Regulation, shall retain documentation that establishes that the vehicle is being used in support of emergency operations.
- (g) ROBD device vendors granted certification by CARB to use ROBD devices as part of this HD I/M Regulation shall meet the record keeping requirements specified in Appendix B California Standards for Heavy-Duty Remote On-board Diagnostic Devices Part III, section E.

NOTE: Authority cited: Sections 39002, 39003, 39600, 39601, 43000, 43013, 43018, 43701, 44011.6, and 44152, Health and Safety Code; Section 27153, Vehicle Code. Reference: Section 44152, Health and Safety Code.

## § 2198. Vehicle Emissions Control Equipment Inspections.

- (a) Vehicle emissions control equipment inspections shall be performed by inspectors, referees, and HD I/M testers.
- (b) The inspection of the vehicle and engine components shall include observation and/or verification of all of the following:
  - (1) The presence and legibility of the emission control label as defined in this HD I/M Regulation to determine compliance with the requirements as specified in section 2196(a)(3).
  - (2) Proper configuration of any emissions-related components for a particular vehicle/engine as specified on the emission control label, determined from the manufacturer's specifications found in certification data, published manufacturer's repair information, and/or Executive Orders to determine compliance with the requirements as specified in section 2196(a)(4).
  - (3) The proper installation and application of aftermarket parts to determine compliance with the requirements as specified in section 2196(a)(5).
  - (4) The vehicle mileage as indicated by the odometer and record the value.
  - (5) The MIL bulb's operational status, if applicable:
    - (A) The following inspection conditions shall result in a failed inspection if one or more occur:
      - 1. The vehicle's MIL does not illuminate when the ignition is on and the engine is off.
      - 2. The vehicle's MIL illuminates continuously or flashes with the engine running.

NOTE: Authority cited: Sections 39002, 39003, 39600, 39601, 43000, 43013, 43018, 43701, 44011.6, and 44152, Health and Safety Code; Sections 24019, 27153, 27158.1, and 27158.2, Vehicle Code. Reference: Section 44152, Health and Safety Code; Sections 24019, 27153, 27158.1, and 27158.2, Vehicle Code.

## § 2198.1. In-person Field Inspection Requirements for Drivers and Inspectors.

- (a) The driver of a heavy-duty vehicle selected to undergo the in-person field inspection shall do all the following actions, as applicable:
- (1) Drive the vehicle to the inspection site upon direction of an officer or inspector.
  - (2) Show proof of driver's license, and vehicle registration, ~~and compliance certificate~~ to the inspector or officer upon request.
    - ~~(A) All vehicles operating within California will remain subject to inspection requirements regardless of the possession of a compliance certificate~~
  - (3) Permit the inspector to perform the inspections and test procedures as specified in this HD I/M Regulation.
    - (A) All vehicles operating within California will remain subject to inspection requirements regardless of the vehicle's compliance status.
  - (4) Open the vehicle door so that the inspector may:
    - (A) Observe the driver depress the accelerator pedal and place the transmission in neutral or park, with the parking brake on ~~and/or~~ wheel chocks in place, upon request;
    - (B) Access data link connector to perform an OBD download;
    - (C) Observe the status of the MIL; and
    - (D) Observe the vehicle odometer.
  - (5) Permit a vehicle emissions control equipment inspection and open the engine compartment of the vehicle upon the request of the inspector.
  - (6) ~~As applicable, sign the~~ Sign any relevant citation to acknowledge its receipt and ~~sign the smoke test and inspection report to acknowledge performance of the test procedure.~~ (s).

- (b) The inspector conducting the in-person field inspection shall do all the following:
- (1) Advise the driver that refusal to submit to the test procedure or inspection is an admission constituting proof of a violation.
  - (2) Request driver's license, vehicle registration, and temporary operating permit if applicable, ~~and compliance certificate.~~
  - (3) Obtain all pertinent vehicle and engine identification information.
  - (4) Conduct any necessary and applicable tests and inspection procedures as specified in this HD I/M Regulation.
  - ~~(5)~~ (5) Verify that the vehicle is compliant with the requirements specified in this HD I/M Regulation.
  - (6) As deemed necessary, issue a citation to the driver of a vehicle that fails to meet the requirements established by this HD I/M Regulation.

NOTE: Authority cited: Sections 39002, 39003, 39600, 39601, 43000, 43013, 43018, 43701, 44011.6, and 44152, Health and Safety Code; Sections 24019, 27153, 27158.1, and 27158.2, Vehicle Code. Reference: Section 44152, Health and Safety Code; Sections 24019, 27153, 27158.1, and 27158.2, Vehicle Code.

### **§ 2198.2. Enforcement.**

- (a) Notice to Submit to Testing. The owner of a vehicle passing through a roadside emissions monitoring device that meets at least one of the criteria specified in section 2196.5(a) shall receive a Notice to Submit to Testing. The owner shall be provided 30 calendar days to submit the applicable demonstration of compliance as specified in section 2198.2(f). Failure to provide the applicable demonstration of compliance by the provided due date may result in a violation.
- (b) Violations.

- (1) Citations. Any violation of the requirements specified in this ~~chapter~~HD I/M Regulation may result in the direct issuance of citation and penalties. The registered owner, vehicle operator, freight contractor, or other entity that receives a citation shall have 45 calendar days, or 75 calendar days for owners of agricultural vehicles, to submit the applicable demonstration of compliance as specified in section 2198.2(f) and any applicable penalties. Citation and penalties may also be assessed for the following:
  - (A) Refusals. The refusal by an owner or driver of a vehicle to do any of the following items shall constitute a failure of the inspection or applicable test procedures conducted during an inspection, and may result in applicable penalties.
    - 1. Refusal to submit to an inspection or any applicable tests during an in-person field inspection as specified in section 2198.1(a).
    - 2. Refusal to submit to a referee inspection as specified in section 2196.7.
  - (2) Submittal of Fraudulent Data. The submittal of fraudulent data to the electronic reporting system shall be considered a violation of this HD I/M Regulation.

(c) Audits.

- (1) Records. ~~Parties~~Upon request from CARB, entities subject to the recordkeeping requirements specified in section 2197.3 shall ~~upon request, make records available to CARB,~~ for the purposes of auditing.
- (2) Inspections. Upon written request from CARB, the owner of a vehicle subject to the requirements of this HD I/M Regulation shall make their vehicle available for inspection at a predetermined date and location.

- (d) Penalties. Any person or entity who fails to comply with the requirements of this HD I/M Regulation, who fails to submit any information, ~~or report, or statement~~ accurately and correctly as required by this HD I/M Regulation, or who submits any false statement or representation in any application, report, statement, or other document filed, maintained, or used for the purposes of compliance with this HD I/M Regulation may be subject to ~~a civil penalty pursuant to penalties~~ under Health and Safety Code sections 43016(a)(1), Division 26, Parts 2 and 43016(a)(2). 5. Evidence of fault on the part of the registered owner, vehicle operator, freight contractor, or other entity shall not be considered a mitigating circumstance for assessing penalties.
- (e) Transfer of Ownership. When a heavy-duty vehicle undergoes a bona fide transfer of ownership between non-related persons or entities, the new owner shall not be subject to penalties for any unresolved citations if the previous owner or the new owner submits sufficient evidence to establish that the penalties resulted from citations issued by CARB prior to the transfer of ownership.
- (f) Demonstration of Compliance. Upon issuance of a Notice to Submit to Testing or a citation, the Executive Officer may request additional documentation to serve as evidence to prove compliance. The requested documentation may include one or more of the following items:
- (1) Documentation of a successful OBD test pursuant to a testing method specified in section 2196.3(a).
  - (2) Documentation of a successful SAE J1667 smoke test pursuant to section 2196.4(a).
  - (3) Documentation of a completed vehicle emissions control equipment inspection specified in section 2198.
  - (4) If a repair facility repaired the vehicle at issue, a repair invoice or a completed work order that contains the following information:
    - (A) Name, address, and phone number of the facility.
    - (B) Name of mechanic or technician.
    - (C) Date of the repair.
    - (D) Description of component replacement(s), repair(s), and/or adjustment(s).



- (E) Itemized list of replaced component(s), including description of part, part number, and cost.
  - (F) Vehicle information including the vehicle's engine serial number, vehicle identification number, ~~and~~/or vehicle license plate.
- (5) If the owner made their own repairs to the vehicle at issue:
- (A) An itemized receipt for the parts used in the repair.
  - (B) A statement identifying the date, nature of the repairs made, and vehicle information including vehicle's engine serial number, vehicle identification number, and vehicle license plate.
- (6) Proof of reporting ~~and~~/or a valid HD I/M compliance certificate.
- (7) Statement of Correctness. Statement attesting that submission of data is true and correct.
- (g) Vehicles Removed from Service.
- (1) Vehicles found to be in violation of this HD I/M Regulation are subject to removal from service by the Department of the California Highway Patrol pursuant to California Vehicle Code section 27159 if requested by a CARB inspector, and if one or more unresolved citations issued under section 2198.2(b)(1) exist at the time of inspection.
  - (2) Upon payment of all unpaid penalties for a vehicle that has been removed from service, CARB shall provide the owner, or designee, a release form for presentation to the Department of the California Highway Patrol.
  - (3) The release of the vehicle shall be subject to the condition that it be repaired and post-repair tested or inspected within 15 calendar days.
- (h) Administrative Remedies.
- (1) The owner or operator of a vehicle cited for a violation of this HD I/M Regulation may request an administrative hearing.

- (2) If the owner or operator requests an administrative hearing, CARB shall determine, based on the issues and the amount at issue, as applicable, whether the hearing shall be conducted pursuant to California Code of Regulations, title 17, sections 60055.1 et seq, 60065.1 et seq., or 60075.1 et seq. The owner and operator shall follow the designated administrative process.
- (i) Right of Entry. CARB staff, persons acting at the direction of CARB, and peace officers shall have the right to enter or request information from facilities or sites when CARB determines it necessary to verify compliance with the requirements specified in this HD I/M Regulation where:
- (1) ROBD devices subject to the requirements of this HD I/M Regulation are located ~~and~~/or ROBD device records subject to the requirements of this HD I/M Regulation are located for the purpose of inspections of the ROBD devices themselves ~~and~~/or their records.
  - (2) Vehicles subject to this HD I/M Regulation are operated, stored, tested, ~~and~~/or repaired for the purpose of performing vehicle inspections.
  - (3) Maintenance or test records are kept for vehicles that are subject to the requirements of this HD I/M Regulation for the purpose of performing audits and investigations.
  - (4) Freight contractor and broker records are kept, pursuant to section 2197.3**~~b~~3(b)**, for the purpose of verification of proper recordkeeping on behalf of the freight contractor or broker.
  - (5) Applicable freight facility records are kept, pursuant to section 2197.3(d), for the purpose of verification of proper recordkeeping on behalf of the applicable freight facility.

NOTE: Authority cited: Sections 39002, 39003, 39600, 39601, 43000, 43008.6, 43013, 43016, 43018, 43701, 44011.6, and 44152, Health and Safety Code; Sections 2813, 24019, 27153, 27158.1, 21758.2, and 27159, Vehicle Code. Reference: Sections 39674, 39675, 42400, 42400.1, 42400.2, 42402.2., 42400.3.5, 42410, 43008.6, 434016, and 44152, Health and Safety Code; Sections 2813, 24019, 27153, 27156, 27158.1, 21758.2, and 27159, Vehicle Code.

## **§ 2199. Severability of Provisions.**

If any subsection, paragraph, subparagraph, sentence, clause, phrase, or portion of this HD I/M Regulation is, for any reason, held invalid, unconstitutional, or unenforceable by any court of competent jurisdiction, such portion shall be deemed as a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of the chapter.

NOTE: Authority cited: Sections 39002, 39003, 39600, 39601, 43000, 43013, 43018, 43701, 44011.6, and 44152, Health and Safety Code; Section 27153, Vehicle Code. Reference: Section 44152, Health and Safety Code.

### **§ 2199.1. Sunset of the Requirements of the Heavy-Duty Vehicle Inspection Program and the Periodic Smoke Inspection Program.**

The requirements established by title 13, Division 3, Chapter 3.5, sections 2180 to 2189 shall be superseded by the requirements established by title 13, Division 3, Chapter 3.7, sections 2195 to 2199 upon the effective date of this HD I/M Regulation. Any enforcement actions resulting from a violation of the sections 2180 to 2189 prior to the effective date of sections 2195 to 2199 shall remain valid.

The requirements established by title 13, Division 3, Chapter 3.6, sections 2190 to 2194 shall also be superseded by the requirements established by title 13, Division 3, Chapter 3.7, sections 2195 to 2199, but only upon implementation of the requirements established in section 2196.2 on or after January 1, 2024. The Executive Officer shall notify regulated entities of the effective date by publishing the effective date in the California Regulatory Notice register and on CARB's website at least 90 calendar days prior to the effective date. Any enforcement actions resulting from a violation of the sections 2190 to 2194 prior to the implementation of section 2196.2 shall remain valid.

If any portion of title 13, Division 3, Chapter 3.7, sections 2195 to 2199 is held invalid, unconstitutional, or unenforceable by any court of competent jurisdiction, the requirements of sections 2180 to 2189 or 2190 to 2194 shall be reinstated alongside the remaining enforceable sections of 2195 through 2199.

NOTE: Authority cited Sections 39002, 39003, 39600, 39601, 43000, 43013, 43018, 43701, 44011.6, and 44152, Health and Safety Code; Section 27153, Vehicle Code. Reference: Section 44152, Health and Safety Code.