

Draft Proposed HD IM Regulation Order
August 3, 2021, Public Workshop

APPENDIX A

DRAFT PROPOSED REGULATION ORDER

HEAVY-DUTY VEHICLE INSPECTION AND MAINTENANCE PROGRAM

Chapter 3.7. Heavy-Duty Vehicle Inspection and Maintenance Program

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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 chapter applies to:

- (1) All non-gasoline heavy-duty vehicles operating in the State of California and the owners and operators of such vehicles.
- (2) Any Freight Contractor or broker doing business with or intending to do business with owners of vehicles subject to the requirements of this chapter.
- (3) The owner of any Applicable Freight Facility allowing the operation of vehicles subject to the requirements of this chapter on their property.
- (4) Vendors of devices used to test vehicles in accordance with the requirements of this chapter.
- (5) Individuals performing vehicle testing in accordance with the requirements of this chapter.

(b) This chapter does not apply to:

- (1) Zero-emission heavy-duty vehicles, as defined in this chapter;
- (2) Authorized emergency vehicles, as defined in this chapter;
- (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 chapter, 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 chapter, registered outside of California and never used for commercial 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 chapter for 30 calendar days from the first day of operation. After 30 calendar days, the owner of an out-of-state heavy-duty vehicle operating under these emergency orders shall obtain a compliance certificate pursuant to this chapter. Drivers of heavy-duty vehicles operating under these emergency orders shall keep copies of dispatch records and/or documentation verifying support of emergency operations in the vehicle. The driver and/or vehicle owner shall make the records available to CARB staff or appropriate California official, such as a California Highway Patrol officer, upon request.
- (d) The requirements of sections 2196.1, 2197, and 2197.3 shall not take effect prior to July 1, 2023. The requirements of sections 2196.2 and 2196.8 shall not take effect prior to January 1, 2024. 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.

NOTE: Authority cited: sections _____, _____ and _____, Health and Safety Code.
Reference: sections _____, _____ and _____, Health and Safety Code.

§ 2195.1. Definitions.

- (a) For the purposes of this chapter, the following definitions shall apply:

“Affirmation of Fleet Wide Compliance” means a document generated by the electronic reporting system affirming on the date of generation that the

vehicles within the given fleet are compliant with the requirements of this chapter 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 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, but is not limited to, 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 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 chapter, “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 if one or more heavy-duty vehicles operate within the legal property boundary of the facility:

- (1) A Seaport Facility, as defined in this section; or
- (2) An Intermodal Railyard, as defined in this section

“Authorized dealer” means a group of independent service and repair facilities that are recognized by the motor vehicle or engine manufacturer as being capable of performing repairs to factory specifications; including warranty repair work.

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

- (1) Authorized emergency vehicles as specified in California Vehicle Code section 165.
- (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 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 outlined in section 2198.2(b) which requires submission of documentation and payment of a penalty.

“Class I Railroad” is a railroad that is defined as Class I pursuant to 49 C.F.R. § 1201(1-1).

“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 chapter, 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 chapter.

- (1) “Annual compliance deadline” refers to the deadline once per compliance year for which a qualifying vehicle owner shall verify compliance pursuant to this chapter. The annual deadline is the final day of a vehicle’s compliance year.
- (2) “Semiannual compliance deadline” refers to the deadline twice a compliance year for which a vehicle owner shall verify compliance pursuant to this chapter. Semiannual deadlines occur on a vehicle’s compliance year expiration day in months six and twelve of each 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 those months.

“Compliance interval” refers to the period during which a compliance certificate is valid. A compliance interval starts on the date of the vehicle’s compliance deadline and ends on the date of the vehicle’s next compliance deadline. For example, if a vehicle has a semiannual compliance deadline on September 31, its first compliance interval would be September 31 to March 31, inclusive.

“Compliance test” means the applicable test specified in sections 2196.3 and 2196.4 required of a vehicle subject to this chapter.

“Compliance year” refers to the annual period for which a vehicle’s compliance fee applies. For vehicles that register annually with the California DMV, the compliance year shall align with the vehicle’s annual registration period.

- (1) For vehicles that register with the California DMV less frequently than an annual basis, the end of every compliance year shall align with the day and month of a vehicle’s DMV registration expiration date.
- (2) For California registered vehicles exempt from ongoing California DMV registration, the end of every compliance year shall align with the day and month of a vehicle’s registration date.
- (3) The compliance year for a non-California registered vehicle 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

“Conditional compliance certificate” refers to a certificate issued to a vehicle owner granted a one-time compliance time extension pursuant to section 2196.8 that allows the applicable vehicle to be operated up to the vehicle’s next compliance deadline.

“Consumable chemical fuel” for purposes of this chapter, 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.

“Declared DMV operation months” means a vehicle’s specific months of operation as specified to DMV during the registration process.

“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 outlined in section 2198.2(f).

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

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

“Emission control label (ECL)” means the label required by the “California Motor Vehicle Emission Control Label Specifications”, incorporated by reference in title 13, CCR, section 1965, or Title 40, Code of Federal Regulations (CFR), Part 86, Subpart A.

“Emissions control system” means the pollution control components, connections and associated mechanisms on an engine at the time its engine family is certified, including, but not limited to, 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 from the Executive Officer, to operate a vehicle in California for five consecutive calendar days without obtaining a compliance certificate.

“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 chapter.

“Freight Contractor” means any person, excluding a broker, who enters into a contract with any party requiring the operation of a heavy-duty vehicle in the State of California, for commercial purposes. This includes but is not limited to a shipper, receiver, carrier, as defined in this chapter, or any other intermediary party.

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

“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 chapter 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. 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.

“In-person field inspection” means any inspection conducted in accordance with the procedures outlined in this chapter at an inspection site by a CARB inspector and/or peace officer.

“Inspection site” means an area including, but not limited to, a random roadside location, a weigh station, or a fleet facility used for conducting the heavy-duty vehicle test procedure, emission 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 facility” means a facility involved in the movement of goods in one and the same loading unit or vehicle which uses successively several modes of transport without handling of the goods themselves in changing modes. Such a facility is typically involved in loading and unloading refrigerated shipping containers and trailers to and from railcars, trucks, and ocean-going ships.

“Intermodal railyard” means an intermodal facility owned or operated by a Class I Railroad.

“Issuance” means the act of mailing, providing digitally, or personally delivering an Executive Order, Compliance Certificate, 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 outlined 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 and loading or delivery of waterborne shipments or passengers, including areas devoted to the maintenance of the terminal or equipment. For the purposes of this chapter, the term includes but is not limited to 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.

- (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 outlined in section 2198.2(a).

“On-Board Diagnostics (OBD)” means any system certified to meet the requirements of title 13, CCR, sections 1968.1, 1968.2, 1971.1, or future OBD requirements adopted by the CARB.

“OBD-equipped vehicle” means a vehicle equipped with a certified heavy-duty engine that meets the requirements of title 13, CCR, section 1971.1 for the following model years and fuel types:

- (1) Model year 2013 and newer diesel engines;
- (2) Model year 2013 and newer diesel hybrid engines;
- (3) Model year 2018 and newer alternative fuel engines; and 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 diesel vehicle requirements established by CARB.

“Owner” of a vehicle means the person or persons registered as the owner of a vehicle by the California Department of Motor Vehicles (DMV), or its equivalent in another state, province, or country (presumed at the time of any citation to be the person or persons identified as the owner on the registration document or title carried on the vehicle), except in the following circumstances for rental vehicles.

- (1) The owner of the vehicle shall be responsible for compliance.
- (2) If the rental agreement is for a period of one year or longer, responsibility for compliance may be transferred to the renter of the vehicle, only if there is a written notice signed by both owner of the rented vehicle and renter. The written notice shall be included in the existing rental agreement or provided in a separate document with the following statement: "The renter of this vehicle understands that when operating this vehicle in California, the vehicle must be compliant with sections 2195 – 2199, title 13, CCR, and that it is the responsibility of the renter to ensure this vehicle is compliant." This signed written notice shall be carried in the rented vehicle at all times while operating in California.
- (3) For purposes of enforcement, if the rented or leased vehicle is cited for noncompliance, the owner of the vehicle shall be considered the responsible entity unless a written notice meeting the requirements specified above in (2) is presented to a peace officer or inspector upon request.

For purposes of this chapter, the terms "rental company," "rental agreement," "rented," "owner of the rented vehicle," and "renter," mean the same as "leasing company," "lease agreement," "leased," "lessor," and "lessee" respectively.

For the purposes of this chapter, 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 be the owner of the vehicle.

"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.

"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 approved 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 a device used for collecting and submitting OBD data through CARB’s electronic system approved by the Executive Officer.

- (1) “Certified continuously connected remote OBD (CC-ROBD) device” means a certified OBD data collection and submission device certified to meet the standards in Appendix B, adopted [INSERT DATE] and hereby incorporated by reference, and installed exclusively on one vehicle that is connected to the vehicle at all times.
- (2) “Certified non-continuously connected remote OBD (NCC-ROBD) device” means a certified OBD data collection and submission device certified to meet the standards in Appendix B of this chapter and designed for use on multiple vehicles.

“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 approved emissions monitoring instrument that may include, but is not limited to, an emissions sampling system that remotely measures tailpipe emissions, downloads OBD data, and/or captures other information to identify a specific vehicle from pass-through vehicles.

“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” is 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 chapter, seaport does not include seaport property that is not related to or primarily used to engage in water-borne commerce. Seaports covered by this chapter include, but are not limited to, the Port of Long Beach, Port of Los Angeles, Port of Humboldt Bay, Port of San Diego, Port of Hueneme, Port of Oakland, Port of San Francisco, Port of Sacramento, Port of Stockton, Port of Redwood City, Port of Crockett, Port of Richmond, Port of Pittsburg, and the Port of Benicia.

“Seaport Facility” means any non-military independent marine terminal or operational seaport where the seaport functions as a marine terminal operator.

“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 chapter, 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, but is not limited to, 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 methods or actions required to complete the tests specified in this chapter, for the purposes of compliance verification.

“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 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 the Executive Officer of the CARB may be used. Unless otherwise noted, the VIN and alternate 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, applies for certification, or sells 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 , and , Health and Safety Code.
Reference: sections , and , Health and Safety Code.

§ 2196. Owner and Operator Requirements.

- (a) For each vehicle subject to the requirements of this chapter, the vehicle owner shall:

- (1) Obtain a valid compliance certificate as required under 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).
- (b) The vehicle owner or designee shall attest in the electronic reporting system the complete list of vehicles for which they are responsible, as outlined in section 2197.2(b)(3).
- (c) In the event that 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 period.
- (d) Five-Day Temporary 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 subsection (a).
- (1) Vehicles are eligible to apply for a Five-Day Temporary Pass prior to travelling to California once per calendar year. The vehicle owner shall submit an application for a temporary pass to the Executive Officer at least seven business days prior to the vehicle's planned travel or entry in California that includes, but may not be limited to, the information specified in section 2197.2(e).
 - (A) The Executive Officer shall notify the owner of a determination of their request within five (5) business days and issue a Temporary Pass for an eligible vehicle upon approval of the request.
 - (2) The owner shall keep the Temporary 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 a peace officer or inspector, the vehicle operator shall present a valid compliance certificate, conditional compliance certificate, temporary operating permit, or five-day temporary pass for the vehicle under inspection and documentation of the hiring entity, if any, as specified in subsection (a), and any documents related to use of the vehicle under an emergency exemption, as specified in subsection (c).

§ 2196.1. Compliance Certificate.

- (a) The Executive Officer shall issue a compliance certificate to the registered owner of a vehicle upon finding:
 - (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 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 that are past due on the vehicle in question.
- (b) The Executive Officer may 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.
- (c) A compliance certificate shall be valid through a vehicle's compliance interval. The Executive Officer shall not issue a compliance certificate for a compliance interval more than 90 calendar days in advance of the start of that compliance interval.
 - (1) Vehicles subject to this chapter shall be subject compliance intervals with semi-annual compliance deadlines, with the exception of CA registered motor homes, which shall be subject to compliance intervals with annual compliance deadlines.
- (d) A valid compliance certificate obtained within the last 90 calendar days shall be required of a California registered vehicle upon renewal of vehicle registration.
- (e) A valid compliance certificate obtained within the last 90 calendar days shall be required of a California registered vehicle upon initial registration or the transfer of ownership of a vehicle unless one of the following conditions apply:

- (1) A motor vehicle registered to a sole proprietor is transferred to the proprietor as owner.
 - (2) 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.
 - (3) 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.
 - (4) An additional individual is added as a registered owner of the motor vehicle.
 - (5) The sale of a new motor vehicle as defined in Health and Safety Code section 39042 to an ultimate purchaser.
- (f) Compliance Fee. The Executive Officer shall assess a compliance fee of \$XX for each registered vehicle prior to a vehicle receiving its first compliance certificate of 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 1st of each year on CARB's website.
- (g) CARB may publicly disclose the compliance status of vehicles operating in California without a compliance certificate, as required by this chapter.

NOTE: Authority cited: sections , , and , Health and Safety Code.
Reference: sections , , and , Health and Safety Code.

§ 2196.2. Periodic Vehicle Emission Testing Requirements

- (a) Applicability. The requirements of this section shall apply to each vehicle subject to this chapter.
- (b) The owner shall ensure the vehicle is periodically tested prior to the vehicle's compliance deadline.
 - (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) Upon the submission of a passing compliance test within 90 calendar days of a vehicle's compliance deadline, the vehicle shall be determined to have fulfilled the periodic testing requirement until the vehicle's next compliance deadline that is more than 90 calendar days from the submission.
 - (1) The submission of a passing compliance test prior to 90 calendar days before a vehicle's compliance deadline shall fulfill a vehicle's periodic testing requirement until the current compliance deadline (i.e., not until the vehicle's next compliance deadline that is more than 90 calendar days from the submission).
- (d) If the vehicle owner, HD I/M tester, or CARB determines that the test emission results do not pass, a new vehicle compliance test must be submitted prior to a vehicle's compliance deadline to demonstrate compliance with this section.

NOTE: Authority cited: sections _____, _____ and _____, Health and Safety Code.
Reference: sections _____, _____ and _____, Health and Safety Code.

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

- (a) An OBD-equipped vehicle owner 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.
 - (2) A certified NCC-ROBD device that meets the requirements of Appendix B 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 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 failing a compliance test. The Executive Officer shall determine that an OBD-equipped vehicle has failed a compliance test if one or more 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 _____, _____ and _____, Health and Safety Code.
Reference: sections _____, _____ and _____, Health and Safety Code.

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

- (a) A HD I/M tester shall test the vehicle and, if the vehicle passes, submit a passing smoke opacity test performed in accordance with the SAE J1667 test procedure, which is incorporated herein by reference. The HD I/M tester shall also submit a passing Vehicle Emissions Control Equipment Inspection as specified in section 2198.

- (1) Non-OBD-equipped alternative fuel vehicles shall be exempt from the requirement of submitting a SAE J1667 opacity test as part of the vehicle compliance test.
- (b) Criteria for failing a compliance test. The Executive Officer shall determine that a non-OBD-equipped vehicle has failed the vehicle compliance test if one or more of the following conditions occur:
 - (1) The vehicle fails to meet one or more of the requirements specified in the Vehicle Emissions Control Equipment Inspection specified in section 2198.
 - (2) The vehicle exceeds the smoke opacity limits 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 _____, _____ and _____, Health and Safety Code.
Reference: sections _____, _____ and _____, Health and Safety Code.

§ 2196.5. Roadside Emissions Monitoring Devices.

- (a) All heavy-duty vehicles applicable to this chapter 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, using an Executive Officer approved method, 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 13 CCR section 1971.1 (e)(8.2.1);

- (B) A roadside emissions monitoring device, using an Executive Officer approved method, records an OBD-equipped vehicle with a NOx emissions measurement that corresponds to exceeding the equivalent OBD trigger threshold for illuminating the MIL, as described in 13 CCR section 1971.1 (e)(6.2.1);
- (2) Non-OBD-Equipped Vehicles.
- (A) A roadside emissions monitoring device, using an Executive Officer approved method, 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 _____, _____ and _____, Health and Safety Code.
Reference: sections _____, _____ and _____, Health and Safety 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, regardless of its diesel engine model-year.
 - (3) 20% for any heavy-duty vehicle equipped or retrofitted with a Level 2 VDECs, 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.
 - (3) 10% for Tier 4 interim and Tier 4 final engines.

NOTE: Authority cited: sections _____, _____ and _____, Health and Safety Code.
Reference: sections _____, _____ and _____, Health and Safety Code.

§ 2196.7. Referee Services.

- (a) This section applies to any heavy-duty vehicle owner whose vehicle is referred to a referee for inspection. Referee services shall be required for the inspection of a vehicle in one or more of the following circumstances:
- (1) The vehicle owner disputes an inspection result and requests an independent evaluation of a vehicle's compliance status.
 - (2) The Executive Officer has directed a vehicle to a referee station for one or more of the following reasons:
 - (A) A law enforcement agency requests the Executive Officer to direct a vehicle to referee services.
 - (B) 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.
 - (C) The Executive Officer has issued the vehicle owner a Notice to Submit to Testing under section 2196.5.
 - (D) The vehicle owner is suspected of operating with tampered emission control components.
 - (E) The vehicle owner has failed to submit required testing data.
 - (F) The vehicle owner has unresolved citations related to this chapter.

- (G) Services are required for auditing, program validation, and/or demonstration of compliance purposes.
 - (H) The vehicle condition makes a typical inspection difficult due to design, malfunctioning condition, or inspection incompatibility.
 - (I) CARB requires the verification of a submitted repair invoice, work order, or other proof of compliance documentation.
- (3) 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, but are not limited to, the following:
- (A) Vehicles equipped with an engine change.
 - (B) Vehicles equipped with an alternative fuel retrofit system.
- (4) A vehicle has been converted to a motor home for non-commercial use.
- (5) A vehicle owner requests a possible time extension as specified in section 2196.8.
- (b) A vehicle owner that has a vehicle directed to the referee for testing shall have 45 calendar days from referral to complete and pass the compliance test.
- (c) The referee shall inspect the vehicle 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.
- (d) The referee shall recommend withholding a compliance certificate if a vehicle fails any of the applicable criteria set forth in sections 2196.3 and 2196.4 unless the referee identifies inspection incompatibilities or other technical issues that cannot be resolved.

NOTE: Authority cited: sections _____, _____ and _____, Health and Safety Code.
Reference: sections _____, _____ and _____, Health and Safety Code.

§ 2196.8. Parts Unavailability Compliance Time Extension.

- (a) Applicability. This section applies to heavy-duty vehicle owners of fleets of three or fewer vehicles subject to the requirements of this chapter.
- (b) Upon request, the Executive Officer may grant a one-time compliance extension to eligible vehicles in the event that vehicle parts necessary to bring the vehicle back into compliance are not available to complete the needed repair by the compliance deadline.
- (c) Upon approval of a time extension request, the owner shall receive a conditional compliance certificate allowing operation of the vehicle up to the vehicle's next compliance deadline.
- (d) Upon making a compliance extension request, the vehicle owner shall provide the documentation specified in section 2197.2(i) in a file format approved by the Executive Officer to demonstrate that a good-faith effort has been made to bring the vehicle into compliance by the compliance deadline.
 - (1) In order to be eligible to request a compliance extension, the owner and the vehicle shall meet the following requirements:
 - (A) Fleet eligibility as specified in subsection (a) of this section.
 - (B) The vehicle's emissions control systems have not been tampered.
 - (C) The vehicle has no outstanding emissions or OBD-related recalls that are past due.
 - (D) The vehicle owner has no unresolved citations.
 - (E) The vehicle has not been granted a time extension previously as per this section.
 - (F) 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 repair facilities no later than seven days after the non-compliance issue was first identified.

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

- (a) Any in-state or out-of-state Freight Contractor, upon doing business with any business entity or fleet requiring the operation of vehicles subject to this chapter within California, shall only contract with compliant vehicles or fleets and comply with the recordkeeping requirements of section 2197.3(b).
- (b) Any in-state or out-of-state broker shall only arrange transportation through motor carriers with compliant vehicles or fleets and maintain records in accordance with the recordkeeping requirements outlined in 2197.3(c).
- (c) Any Applicable Freight Facility shall either:
 - (1) Ensure that only compliant vehicles will enter and operate on their property. Compliance can be verified by requesting a valid CARB 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 chapter, in accordance with the recordkeeping requirements outlined in 2197.3(d).

NOTE: Authority cited: sections _____, _____ and _____, Health and Safety Code.
Reference: sections _____, _____ and _____, Health and Safety Code.

§ 2197.1 HD I/M Tester Requirements.

- (a) In order to conduct tests and inspections, and submit data to the electronic reporting system, as outlined in sections 2196.3 and 2196.4, individuals shall obtain a HD I/M tester credential. Candidates will be issued a HD I/M tester credential upon successfully obtaining the following items:
 - (1) A certificate of completion for a training course approved by the Executive Officer.
 - (2) A passing score on the CARB administered training exam.
- (b) The training course approved by the Executive Officer shall include the following modules and may include additional relevant information:

- (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 certificate of completion of the California Council on Diesel Education and Technology HDVIP/PSIP Course (CCDET I).
- (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 chapter.
 - (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 CARB approved training course including receipt of a passing score on the CARB administered training exam. In order to maintain a current and valid HD I/M tester credential, individuals will need to meet reaccreditation requirements and continuing education requirements based on program needs.
- (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 outlined in section 2198.2(b) for HD I/M testers, vehicle owners, and/or other entities involved. The Executive Officer may seek remedies prohibiting 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 , and , Health and Safety Code.
Reference: sections , and , Health and Safety Code.

§ 2197.2 Reporting Requirements.

- (a) Various sections of this chapter require affected entities to report information to CARB. Such requirements are described in this 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, but not limited to:
 - (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 be required to attest in the electronic reporting system the complete list of vehicles 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. Each vehicle must be added to the list of applicable vehicles within 30 calendar days of purchase.
 - 2. Each vehicle must be removed from the list of applicable vehicles within 30 calendar days of sale.
 - (B) Upon attesting responsibility for the complete list of vehicles, an Affirmation of Fleet Wide Compliance shall be available, under the condition that each vehicle within the fleet has demonstrated compliance with the requirements of this chapter and has obtained a current, valid compliance certificate.
- (c) Required OBD Testing Data
- (1) OBD data as specified in subsection (D)(6.1) of PART II, Appendix B shall be submitted via the file format specified in subsection (D)(4) of PART II, Appendix B 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 in a reporting system approved by the Executive Officer.
 - (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.
 - (2) Smoke opacity test submissions shall be submitted via a file format approved by the Executive Officer.
- (e) Vehicle Emissions Control Equipment Inspections specified in section 2198 shall be submitted via a file format approved by the Executive Officer.
- (f) HD I/M Testers.
 - (1) Prior to submitting vehicle compliance tests through a tester account, HD I/M testers shall report the following information to a reporting system approved by the Executive Officer.
 - (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.
- (2) HD I/M testers shall submit vehicle compliance tests via a tester account to the electronic reporting system approved by the Executive Officer as follows:
- (A) OBD vehicle compliance tests meeting the requirements of section 2196.3(a)(1) and (2) shall be submitted via a certified NCC-ROBD device registered to the HD I/M tester via the file format specified in 2197.2(c)(1)
 - (B) OBD vehicle compliance tests meeting the requirements of section 2196.3(a)(3) shall be submitted as specified in section 2197.2(c)(2) via a file format approved by the Executive Officer.
 - (C) Submitted smoke opacity vehicle compliance tests shall meet the requirements of section 2197.2(d)
 - (D) Submitted Vehicle Inspection Emissions Control Equipment Inspections shall meet the requirements of section 2197.2(e).
- (g) Five-Day Temporary Pass. When applying for a temporary pass, a vehicle owner shall submit an application form to the electronic reporting system. The owner shall be required to submit pertinent information specified by the Executive Officer relevant to the vehicle's trip to California, including, but not limited to:

- (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) OBD Device Vendors: OBD device vendors granted certification to use devices to test vehicles for compliance with the requirements of this chapter shall report the data fields specified in Appendix B Part III, section F to the electronic reporting system approved by the Executive Officer.
- (i) 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 repair shops via a file format approved by the Executive Officer. The repair(s) that is needed to correct the vehicle's non-compliance issue,
- (1) The part(s) needed to repair the compliance issue,
 - (2) What part(s) needed to repair the compliance issue are unavailable,
 - (3) The reason(s) as to why the part(s) are unavailable, and;
 - (4) An estimate as to when the parts are expected to become available.
 - (5) Evidence of an initial effort to contact repair facilities no later than seven days after the non-compliance issue was first identified.

§ 2197.3. Recordkeeping Requirements.

- (a) Various sections of this chapter require affected entities to adhere to recordkeeping requirements and provide records to CARB upon request. Such requirements are described in this section.
- (b) Freight Contractors, as specified in section 2197(a), must retain the following records at the business location for a minimum of five years from the dispatch date and provide them to CARB within 72 hours of official written or oral request:
 - (1) For each heavy-duty vehicle subject to this chapter that is contracted by the Freight Contractor, the Freight Contractor must keep the documentation described below:
 - (A) A current and valid copy of the vehicle compliance certificate for each vehicle dispatched to 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 must 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, brokers, and motor carriers requiring the operation of heavy-duty vehicles in California. Documentation must 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, must retain the following records for each motor carrier or vehicle owner brokered with, who dispatches vehicles to California resulting from a contractual agreement with the broker. Records must be retained for a minimum of five years from date of contract, and provided to CARB within 72 hours of official written or oral request.
 - (1) Verification of compliance, either in the form of:
 - (A) A current and valid copy of the vehicle compliance certificate for each vehicle dispatched to California; or
 - (B) An Affirmation of Fleet Wide Compliance for a fleet dispatching vehicles to California, which 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 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) Owners of Applicable Freight Facilities must retain the following records for each vehicle for which compliance has not been verified, as specified in section 2197(c). The following records must be kept for a minimum of five years from date of entry and provide them to CARB within 72 hours of official written or oral request:
 - (1) Dispatching motor carrier:
 - (A) Entity 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.
 - (E) Bill of lading, load tender or any other tracking number linked to the specific load.
- (2) Heavy-Duty Vehicle Information:
- (A) Entry date and time.
 - (B) Registered owner's name.
 - (C) Operator's name.
 - (D) License plate number and state of issuance.
 - (E) VIN.
- (e) Drivers and/or vehicle owners of heavy-duty vehicles operating for commercial purposes in the state of California, as specified in section 2196(a), must ensure that the following forms of documentation are available in the vehicle and provided to CARB staff 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.

- (2) If the vehicle is operating under an exemption pursuant to a declared emergency as specified in subsection 2195(c), documentation must be available that establishes that the vehicle is being used in support of emergency operations for a specified time period.
- (f) OBD device vendors granted certification to use ROBD devices to test vehicles for compliance with the requirements of this chapter shall keep records of data reported to the electronic reporting system for no less than three years from the date of reporting.

NOTE: Authority cited: sections , and , Health and Safety Code.
Reference: sections , and , Health and Safety Code.

§ 2198. Vehicle Emissions Control Equipment Inspections.

- (a) Applicable vehicles are subject to the following vehicle emissions control equipment inspections by CARB staff, referees, and HD I/M testers.
- (b) The inspection of the applicable vehicle and engine components shall include, but is not limited to, all of the following and shall ensure compliance with any and all of the requirements outlined below:
 - (1) The presence and legibility of the emission control label as defined in this chapter;
 - (2) Proper configuration of any emissions-related components for a particular vehicle/engine as specified on the ECL, determined from the manufacturer's specifications found in certification data, published manufacturer's repair information, and/or Executive Orders;
 - (3) The proper installation and application of aftermarket parts as determined by the aftermarket parts label and Executive Order;
 - (4) The vehicle mileage as indicated by the odometer.
 - (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; or

2. The vehicle's MIL illuminates continuously or flashes with the engine running.

NOTE: Authority cited: sections , and , Health and Safety Code.
Reference: sections , and , Health and Safety 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 of 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, vehicle registration, and compliance certificate to the inspector or officer upon request.
 - (A) All vehicles operating in 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 chapter.
 - (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 an emissions control system inspection and open the engine compartment of the vehicle upon the request of the inspector.
 - (6) As applicable, sign the citation to acknowledge its receipt and sign the smoke test report to acknowledge performance of the test procedure.

- (b) The inspector conducting the in-person field inspection shall do all of 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, 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 chapter.
 - (5) As deemed necessary, issue a citation to the driver of a vehicle that fails to meet the requirements established by this chapter.

NOTE: Authority cited: sections , and , Health and Safety Code. Reference: sections , and , Health and Safety Code.

§ 2198.2. Enforcement.

- (a) Notice to Submit to Testing.
 - (1) The owner of a vehicle passing through a roadside emissions monitoring device that meets at least one of the criteria outlined 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 outlined in section 2198.2(f). Failure to provide the applicable demonstration of compliance by the provided due date may result in a citation and applicable penalties.
- (b) Violations.

- (1) Citations. Any violation of the requirements outlined in this chapter may result in the direct issuance of citation and penalties. The registered owner, vehicle operator, Freight Contractor, or other entity that receives a citation will be provided 45 calendar days, or 75 calendar days for owners of agricultural vehicles, to submit the applicable demonstration of compliance as outlined in section 2198.2(f) and applicable penalties. 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 the penalty. 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 would constitute as a failure of the inspection or applicable test procedures conducted during an inspection, unless the driver is cited by the California Highway Patrol for a violation of California Vehicle Code section 2813, and shall result in applicable penalties.
 1. Refusal to submit to an inspection or any applicable tests during an in-person field inspection as outlined in section 2198.1(a).
 2. Refusal to submit to a referee inspection as outlined in section 2196.7.
 - (2) Submittal of Fraudulent Data. The submittal of fraudulent data to the electronic reporting system approved by the Executive Officer shall be considered a violation of this chapter and shall result in applicable penalties.
- (c) Audits.
- (1) Records. Parties subject to the recordkeeping requirements outlined in section 2197.3 must make records available to CARB upon request, for the purposes of auditing to verify the accuracy of the records. In the event the records are not made available within the specified timeframe, CARB may assess penalties for non-compliance.
 - (2) Inspections. The owner of a vehicle subject to the requirements of this chapter must make their vehicle available for inspection at a predetermined date and location, upon written request from CARB.
- (d) Penalties.

- (1) Any person or entity who fails to comply with the requirements of this chapter, who fails to submit any information, report, or statement accurately and correctly as required by this chapter, 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 chapter may be subject to a civil penalty pursuant to Health and Safety Code sections 43016(a)(1) and 43016(a)(2).
- (e) Change of Ownership.
- (1) When a heavy-duty vehicle undergoes a bona fide change of ownership between non-related persons or entities, the new owner may not be subject to the penalties for any unresolved citations if proper evidence is submitted to prove citations were issued prior to the change of ownership.
- (f) Demonstration of Compliance.
- (1) Demonstration of Compliance. In the event of receiving a Notice to Submit to Testing or a citation, the owner must demonstrate compliance by submitting documentation to CARB. The required documentation may include, but is not limited to, one or more of the following items:
 - (A) Complete a successful OBD test pursuant to a testing method specified in section 2196.3(a).
 - (B) Complete a successful SAE J1667 smoke test pursuant to section 2196.4(a).
 - (C) Complete the Vehicle Emission Control Equipment Inspection specified in section 2198.
 - (D) Where repairs are made at a repair facility, a repair invoice or a completed work order which contains the following information:
 1. Name, address, and phone number of the facility.
 2. Name of mechanic or technician.
 3. Date of the repair.

4. Description of component replacement(s), repair(s), and/or adjustment(s).
 5. Itemized list of replaced component(s), including description of part, part number, and cost.
 6. Vehicle information including engine serial number, vehicle identification number, and/or license plate.
- (E) If the owner makes their own repairs, the required documentation includes, but is not limited to, the following items:
1. An itemized receipt for the parts used in the repair.
 2. A statement identifying the date, nature of the repairs made and vehicle information including engine serial number, vehicle identification number, and license plate.
- (F) Proof of reporting and compliance certificate.
- (2) Statement of Correction. Statement attesting that submission of data is true and correct.
- (g) Vehicles Removed from Service.
- (1) Vehicles found to be in violation of this chapter 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 days.
- (h) Administrative Remedies.

- (1) The owner or operator of a vehicle cited for violation of this chapter 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.
- (1) 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 outlined in this chapter, including but not limited to facilities or sites where:
 - (A) ROBD devices subject to the requirements of this chapter are located and/or ROBD device records subject to the requirements of this chapter are located for the purpose of inspections of the ROBD devices themselves and/or their records.
 - (B) Vehicles subject to this chapter are operated, stored, tested, and/or repaired for the purpose of performing vehicle inspections.
 - (C) Maintenance or test records are kept for vehicles that are subject to the requirements of this chapter for the purpose of performing audits and investigations.
 - (D) Freight contractor records are kept, pursuant to section 2197.3b), for the purpose of verification of proper record keeping on behalf of the Freight Contractor.
 - (E) Applicable Freight Facility records are kept, pursuant to section 2197.3(d), for the purpose of verification of proper record keeping on behalf of the Applicable Freight Facility.

NOTE: Authority cited: sections , and , Health and Safety Code.
Reference: sections , and , Health and Safety Code.

§ 2199. Severability of Provisions.

If any subsection, paragraph, subparagraph, sentence, clause, phrase, or portion of this chapter 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 _____, _____ and _____, Health and Safety Code.
Reference: sections _____, _____ and _____, 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 their effective date. 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. 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.

NOTE: Authority cited: sections _____, _____ and _____, Health and Safety Code.
Reference: sections _____, _____ and _____, Health and Safety Code.