

APPENDIX C PROPOSED REGULATION ORDER

Amend Heavy-Duty Diesel Smoke Emission Testing, and Heavy-Duty Vehicle Emission Control System Inspections Sections 2180-2189, title 13, California Code of Regulations, to read as set forth in the following sections:

Section 2180	Applicability <i>(Proposed Amendments)</i>
Section 2180.1	Definitions <i>(Proposed Amendments)</i>
Section 2181	Responsibilities of the Driver and Inspector During the Inspection Procedure <i>(Proposed Amendments)</i>
Section 2182	Heavy-Duty Vehicle Smoke Opacity Standards and Test Procedures; Excessive Smoke <i>(Proposed Amendments)</i>
Section 2183	Inspection of the Emission Control System on a Heavy Duty Vehicle <i>(Proposed Amendments)</i>
Section 2184	Refusal to Submit to Inspection Procedure <i>(Proposed Amendments)</i>
Section 2185	Civil Penalty Schedule <i>(Proposed Amendments)</i>
Section 2186	Demonstration of Correction and Post-Repair Test or Inspection <i>(Proposed Amendments)</i>
Section 2187	Vehicles Removed from Service <i>(Proposed Amendments)</i>
Section 2188	Contesting a Citation <i>(Proposed Amendments)</i>
Section 2189	Severability of Provisions. <i>(Add Section)</i>

Format: The following proposed changes follow the editing format of ~~strikethrough~~ (for text deletions) and underline (for new proposed text).

§ 2180. Applicability

Unless otherwise noted, This chapter applies to all diesel-powered and gasoline powered heavy-duty vehicles, including pre-1974 model-year vehicles, operating in the State of California.

NOTE: Authority Cited: Sections 39600, 39601, 43013, 43701, and 44011.6, Health and Safety Code. Reference: Sections 39002, 39003, 39010, 39033, 43000, 43013, 43018, 43701, and 44011.6, Health and Safety Code. Section 505, Vehicle Code.

§ 2180.1. Definitions

- (a) The definitions of this section supplement and are governed by the definitions set forth in Chapter 2 (commencing with section 39010), Part 1, Division 26 of the Health and Safety Code. The following definitions shall govern the provisions of this chapter.
- (1) “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.
 - (2) “ARB post-repair inspection” means a repeat emission control system inspection, conducted by the Air Resources Board at an Air Resources Board-specified site, for the purpose of clearing a Citation issued under section 2185(a)(2)(C).
 - (23) “ARB post-repair test” means a repeat test, conducted by the Air Resources Board at an Air Resources Board-specified site, for the purpose of clearing a Citation issued under section 2185(a)(2)(C).
 - (34) “Basic penalty” means the civil penalty of (\$500) for a test procedure or emission control system inspection violation that is to be deposited in the Vehicle Inspection and Repair Fund.
 - (45) “Citation” means a legal notice issued by the Air Resources Board to the owner of a heavy-duty vehicle requiring the owner to repair the vehicle and to pay a civil penalty.
 - (6) “Day” means calendar day.

- (57) "Defective" means a condition in which an emission control system or an emission control system component is malfunctioning due to age, wear, malmaintenance, or design defects.
- (68) "Demonstration of correction" means the documents identified in section 2186.
- (79) "Driver" has the same meaning as defined in California Vehicle Code section 305.
- (810) "Emission control label" or "ECL" means the label required by the "California Motor Vehicle Emission Control Label Specifications", incorporated by reference in 13 CCR, section 1965, or Title 40, Code of Federal Regulations (40 CFR), ~~section 86.085-35~~ or 40 CFR Part 86, Subpart A.
- (911) "Emission control system" means the pollution control components on an engine at the time its engine family is certified, including, but not limited to, the emission control label.
- (4012) "Executive Officer" means the Executive Officer of the Air Resources Board or his or her designee.
- (13) "Federal emission standards" means the emission standards adopted by the U.S. Environmental Protection Agency, pursuant to Title 42 United States Code, section 7521(a), that are required to be met for the certification of heavy-duty vehicles or engines.
- (4414) "Fleet" means two (2) or more heavy-duty vehicles.
- (15) "Heavy-duty commercial vehicle" means a "motor truck" designed, used, or maintained primarily for the transportation of property, as defined in section 410 of the Vehicle Code, and having a gross vehicle weight rating (GVWR) greater than 10,000 pounds.
- (4216) "Heavy-duty vehicle" means a motor vehicle having a manufacturer's maximum gross vehicle weight rating (GVWR) greater than 6,000 pounds, except passenger cars.
- (4317) "Inspection procedure" means the test procedure specified in section 2182 and the emission control system inspection specified in section 2183.

- (~~44~~18) "Inspection site" means an area including 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.
- (~~45~~19) "Inspector" means an Air Resources Board employee with the duty of enforcing Health and Safety Code sections 43701(a) and 44011.6, and Title 13, CCR sections 2180 through 2194.
- (~~46~~20) "Issuance" means the act of mailing or personally delivering a citation to the owner.
- (~~47~~21) "Minimum penalty" means the (\$300) penalty that is to be deposited in the Diesel Emission Reduction Fund pursuant to Health and Safety Code section 44011.6(l).
- (~~48~~22) "Notice of Violation" means a legal notice issued to the owner of a heavy-duty vehicle powered by a pre-1991 model-year diesel engine with a measured smoke opacity exceeding 55 percent but not exceeding 69 percent, requiring the owner to repair the vehicle and submit a demonstration of correction.
- (~~49~~23) "Officer" means a uniformed member of the Department of the California Highway Patrol.
- (~~20~~24) "Opacity" means the percentage of light obstructed from passage through an exhaust smoke plume.
- (~~21~~25) "Owner" means either (A) the person registered as the owner of a vehicle by the California Department of Motor Vehicles (DMV), or its equivalent in another state, province, or country; or (B) a person shown by the registered owner to be legally responsible for the vehicle's maintenance. The person identified as the owner on the registration document carried on the vehicle at the time a citation is issued shall be deemed the owner unless that person demonstrates that another person is the owner of the vehicle.
- (~~22~~26) "Removal from service" means the towing and storage of a vehicle under the auspices of the Department of the California Highway Patrol.
- (~~23~~27) "Repair facility" means any place where heavy-duty vehicles are repaired, rebuilt, reconditioned, or in any way maintained for the public at a charge, and fleet maintenance facilities.

(2428) "SAE J1667" means Society of Automotive Engineers (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.

(2529) "Scan tool evaluation" means using an electronic device to determine if a Low NOx Rebuild Kit, as defined in section 2011(b)(4), is installed.

(2630) "Schoolbus" means the same as defined in California Vehicle Code section 545.

(2731) "Smokemeter" means a detection device used to measure the opacity for smoke in percent opacity.

(2832) "Tampered" means missing, modified, or disconnected, or, as it applies to emission control labels, permanently obscured.

(33) "Test procedures," for the purpose of chapter 3.5, means the test procedures set forth in SAE J1667.

(2934) "Uncleared eCitation" means a eCitation for which demonstration of correction and, if required, payment of any civil penalty, has not been made.

NOTE: Authority Cited: Sections 39600, 39601, 43013, 43701, and 44011.6, Health and Safety Code. Reference: Sections 39002, 39003, 39010, 39033, 43000, 43013, 43018, 43701, and 44011.6, Health and Safety Code. Section 410 and 505, Vehicle Code Title 42 United States Code, section 7521(a); title 40, Code of Federal Regulations Part 86, Subpart A.

§ 2181. Responsibilities of the Driver and Inspector During the Inspection Procedure.

- (a) Driver of heavy-duty diesel-powered vehicle. The driver of a heavy-duty diesel-powered vehicle selected to undergo the inspection procedure shall do all of the following:
- (1) Drive the vehicle to the inspection site upon direction of an officer.
 - (2) Show proof of driver's license and vehicle registration to the inspector or officer upon request.
 - (3) Perform the test procedure upon request by an inspector.

- (4) Open the vehicle door so that the inspector can observe the driver depress the accelerator pedal.
 - (5) Permit an emission control system inspection and open the hood of the vehicle upon the request of the inspector.
 - (6) Permit a scan tool evaluation upon request of the inspector.
 - (7) As applicable, sSign the eCitation or, Notice of violation to acknowledge its receipt and sign the smoke test report to acknowledge performance of the test procedure.
- (b) Driver of heavy-duty gasoline-powered vehicle. The driver of a heavy-duty gasoline-powered vehicle selected to undergo the inspection shall:
- (1) Drive the vehicle to the inspection site upon direction of an officer.
 - (2) Show proof of driver's license and vehicle registration to the inspector or officer upon request.
 - (3) Permit an emission control system inspection and open the hood of the vehicle upon request of the inspector.
 - (4) As applicable, sSign the eCitation or, Notice of Violation to acknowledge its receipt.
- (c) Inspector. The inspector in performing the inspection procedures shall do all of the following:
- (1) Advise the driver that refusal to submit to the inspection procedure is a violation of these regulations.
 - (2) Obtain engine identification information from the vehicle when tested pursuant to section 2182 to determine which opacity standard specified in section 2182 applies.
 - (3) Except as otherwise provided in section 2181(c)(4), issue a ~~copy of the~~ eCitation to the driver of a vehicle that fails the test procedure or the emission control system inspection.
 - (4) Issue a ~~copy of the n~~Notice of violation to the driver of a heavy-duty vehicle powered by a pre-1991 model-year diesel engine with a measured smoke opacity exceeding 55 percent but not exceeding 69 percent, except

where a ~~Notice of~~ Violation or Citation has been issued for the vehicle in the preceding 12 months.

- (5) Issue a ~~warning~~ Citation to the owner of a ~~heavy-duty~~ diesel-powered heavy-duty commercial vehicle missing its emission control label, which requires a civil penalty and correction ~~that the label must be replaced and the engine number identification must be provided to the ARB within 30~~ 45 days of ~~written notification~~ receipt of the Citation by ~~from~~ the ARB. For all other diesel-powered heavy-duty vehicles, issue a warning to the owner that the label must be replaced and the engine number identification must be provided to the ARB within 45 days of written notification from the ARB, or it will be conclusively presumed in any subsequent smoke opacity test where the emission control label remains missing that the vehicle is subject to the 40 percent smoke opacity standard in section 2182(a)(1), unless at the time of the subsequent test it is plainly evident from a visual inspection that the vehicle is powered by a pre-1991 model-year engine.
- (6) Issue a ~~copy of the~~ Citation to the driver of a 1993-1998 heavy-duty diesel-powered vehicle with a Low NOx Rebuild Engine upon determining by scan tool evaluation a violation of section 2011 (c)(1), title 13, California Code of Regulations.

NOTE: Authority Cited: Sections 39600, 39601, 43013, 43701, and 44011.6, Health and Safety Code. Reference: Sections 39002, 39003, 39010, 39033, 43000, 43013, 43018, 43701, and 44011.6, Health and Safety Code. Section 260 and 305, Vehicle Code.

§ 2182. Heavy-Duty Diesel Vehicle Smoke Opacity Standards and Test Procedures; **Excessive Smoke**

(a) Standards

- (1) No heavy-duty vehicle powered by a 1991 or subsequent model-year diesel engine operating on the highways within the State of California shall exceed 40 percent smoke opacity when tested in accordance with this section unless its engine is exempted under subsection (c) or (d) below.
- (2) No heavy-duty vehicle powered by a pre-1991 model-year diesel engine, operating on the highways within the State of California, shall exceed 55 percent smoke opacity when tested in accordance with this section unless its engine is exempted under subsection (c) or (d) below.

(b) **Exemptions**

- (1) The Executive Officer shall exempt from subsections (a)(1) and (2) any engine family that is shown by the engine manufacturer to the satisfaction of the Executive Officer to exhibit smoke opacity greater than 40 percent or 55 percent respectively when in good operating condition and adjusted to the manufacturer's specifications. Such engine family(s) must comply with any technologically appropriate less stringent opacity standard identified by the Executive Officer based on a review of the data obtained from engines in good operating condition and adjusted to manufacturer's specifications.
- (2) The Executive Officer shall exempt from subsections (a)(1) and (2) any 1991 and earlier model-year heavy-duty diesel engines that are equipped with carryover add-on aftermarket turbocharger kits approved by the ARB, and are shown by the kit or engine manufacturer to the satisfaction of the Executive Officer to exhibit smoke opacity greater than 40 percent or 55 percent respectively when in good operating condition and adjusted to the manufacturer's specifications. Such engines must comply with any technologically appropriate less stringent opacity standard identified by the Executive Officer based on a review of the data obtained from engines in good operating condition and adjusted to manufacturer's specifications.
- (3) Exemptions previously issued and in effect on January 1, 1996 shall remain in effect under the amendments to this section adopted on March 2, 1998 and effective on May 4, 1998.
- (4) A manufacturer seeking an exemption under subsection (b) shall provide the ARB with the engine emissions data needed to exempt the engine family and determine technologically appropriate less stringent opacity standards.

- (c) **Effect of missing emission control label on applicable standard.** When the owner of a heavy-duty diesel-powered vehicle receives a Citation or written notification from the ARB that the emission control label was missing during an inspection, the owner must replace the emission control label and provide the engine number identification to the ARB within ~~30~~45 days of receipt of the notification in addition to paying applicable penalties under section 2185(a)(3). If the owner fails to comply with this requirement, it will be conclusively presumed in any subsequent smoke opacity test where the emission control label remains missing that the vehicle is subject to the 40 percent smoke opacity standard in section 2182(a)(1), unless at the time of the subsequent test it is plainly evident from a visual inspection that the vehicle is powered by a pre-1991 model-year engine.

- (d) **Excessive smoke.** A heavy-duty vehicle has excessive smoke if it fails to comply with the smoke opacity standard applicable under this section 2182.
- (e) ~~**Test Procedures.** For purposes of this chapter 3.5, smoke opacity shall be determined in accordance with SAE J1667.~~

NOTE: Authority Cited: Sections 39600, 39601, 43013, 43701, and 44011.6, Health and Safety Code. Reference: Sections 39002, 39003, 39010, 39033, 43000, 43013, 43018, 43701, and 44011.6, Health and Safety Code.

§ 2183. Inspection of the Emission Control System on a Heavy-Duty Vehicle

- (a) **Heavy-duty diesel-powered vehicles.** ~~The~~ No heavy-duty diesel-powered vehicle shall operate in California with tampered or defective emission control components. The ARB shall conduct a visual inspection of heavy-duty diesel-powered vehicles to determine whether emission control components have been tampered with or are defective. The inspection shall ~~subject to tampered or defective conditions include, but are~~ is not limited to, the following:
- (1) The engine governor.
 - (2) Any seals and/or covers protecting the air-fuel ratio adjustments.
 - (3) Any fuel injection pump seal and covers.
 - (4) The air cleaner and flow restriction indicator.
 - (5) The exhaust gas recirculation valve.
 - (6) The particulate matter trap system or catalytic converter system, including pipes and valves.
 - (7) Related hoses, connectors, brackets, and hardware for these components.
 - (8) Engine computer controls, related sensors, and actuators.
 - (9) Emission control label (ECL).
 - (10) Any other emissions-related components for a particular vehicle/engine as determined from the manufacturer's specifications, emission control label, certification data, or published vehicle parts manuals.

(b) ***Heavy-duty gasoline-powered vehicles.*** ~~The~~ No heavy-duty gasoline-powered vehicle shall operate in California with tampered or defective emission control components. The ARB shall conduct a visual inspection of heavy-duty gasoline-powered vehicles to determine whether emission control components have been tampered with or are defective. The inspection shall ~~subject to tampered or defective conditions~~ include, but ~~are~~ is not limited to, the following:

- (1) The air injection system.
- (2) The positive crankcase ventilation system.
- (3) The exhaust gas recirculation system.
- (4) The catalytic converter, including pipes and valves.
- (5) The evaporative emission control system.
- (6) Related hoses, connectors, brackets, and hardware for these components.
- (7) Engine computer controls, related sensors, and actuators.
- (8) On-Board Diagnostic (OBD) systems for 1994 and subsequent model year vehicles, if so equipped.
- (9) ~~Emission control label~~ ECL.
- (10) Any other emissions-related component for a particular vehicle/engine as determined from the manufacturer's specifications, emission control label, certification data, or published vehicle parts manuals.

(c) No 1974 or newer diesel powered heavy-duty commercial vehicle shall operate in California without evidence that, at the time of manufacture, the installed engine met emission standards at least as stringent as applicable federal emission standards for the model year of the engine. The ARB shall base its determination on whether an engine meets the above requirements by inspecting the ECL affixed to vehicle's engine.

NOTE: Authority Cited: Sections 39600, 39601, 43013, 43701, and 44011.6, Health and Safety Code. Reference: Sections 39002, 39003, 39010, 39033, 43000, 43013, 43018, 43701, and 44011.6, Health and Safety Code.

§ 2184. Refusal to Submit to Inspection Procedure.

The refusal by an owner or driver of a vehicle to submit to the scan tool evaluation defined in section 2180.1, the test procedure in section 2182, or to the emission control system inspection in section 2183 constitutes a failure of the evaluation, test procedure, or inspection, respectively, unless the driver is cited by the California Highway Patrol for a violation of California Vehicle Code section 2813.

NOTE: Authority Cited: Sections 39600, 39601, 43013, 43701, and 44011.6, Health and Safety Code. Reference: Sections 39002, 39003, 39010, 39033, 43000, 43013, 43018, 43701, and 44011.6, Health and Safety Code. Sections 305, 505, and 2813, Vehicle Code.

§ 2185. Civil Penalty Schedule.

- (a) The owner of a heavy-duty vehicle that fails the scan tool evaluation, the test procedure, or the emission controls system inspection, including by refusal to submit, is subject to the following penalty schedule:
- (1) Scan Tool Evaluation Violation Penalties
- (A) The owner of a vehicle that is cited for a violation of section 2011(c)(1), and for which demonstration of correction is provided and payment is made within 45 days from personal or certified mail receipt of the citation, shall pay a civil penalty of \$300. Schoolbuses registered in California are exempt from the \$300 civil penalty for the first violation only.
- (B) The owner of a vehicle who violates section 2011(c)(5) shall pay a civil penalty of \$500 in addition to the civil penalty for the violation of section 2011(c)(1).
- (C) The owner of a vehicle cited for a violation of section 2184 for refusing to submit to a scan tool evaluation shall be subject to a civil penalty of \$500.
- (2) Heavy-Duty Vehicle Tampering and Opacity and Tampering Violation Penalties for Violating Sections 2182 and 2183(a) and (b), Except for Violations Involving a Tampered ECL.
- (A) Except as provided below, The the owner of a heavy-duty vehicle, other than a schoolbus, that is cited for the first time pursuant to section 2182 or 2183 (a) and (b), other than for a tampered ECL,

and for which demonstration of correction is provided and payment is made within 45 days from personal or certified mail receipt of the eCitation, shall pay the minimum penalty of \$300. An owner who fails to correct the vehicle or pay the minimum penalty within 45 days of receipt of the Citation shall be assessed a penalty of \$800.

~~(B) The owner of a vehicle that is cited for the first time pursuant to section 2184 for a refusal not pertaining to a scan tool evaluation, or that is cited for the first time pursuant to section 2182 or 2183 and for which demonstration of correction is not provided within 45 days from personal mail or certified mail receipt of the citation shall provide demonstration of correction and pay the minimum penalty of \$300 and the basic penalty of \$500 for a total of \$800. Schoolbuses are exempt from the \$300 minimum penalty for the first violation only.~~

(B) The above penalty shall not apply to the first Citation received by an owner of a schoolbus, but the owner shall be subject to the penalty provisions of paragraphs (A) and (C) below respectively for second and any subsequent violations.

(C) The owner of a vehicle that is cited pursuant to section 2182 or 2183(a) and (b), other than for a tampered ECL, cited a second time within a 12 months period from the issuance of the most recent citation for that for the same vehicle shall within 45 days from personal or certified mail receipt of the current eCitation provide demonstration of correction and pay the penalty of \$1,500 and the minimum penalty of \$300 for a total of \$1,800.

(D) The owner of a heavy-duty vehicle that violates section 2184 by refusing to submit to an inspection conducted under sections 2182 or 2183(a) and (b), including inspections for a tampered ECL, shall be assessed a penalty of \$800 for a first time violation. Subsequent violations of section 2184 for refusing to submit to an inspection under 2182 shall be subject to a penalty of \$1800.

~~(3)(D)~~ Penalties for a Tampered ECL under section 2183.

(A) An owner of any heavy-duty vehicle shall receive a Citation each time that ARB finds that the vehicle has a tampered ECL. For the first year following the effective date of the amended regulation, [date to be inserted], if the owner demonstrates to ARB that a new label has been affixed to the vehicle's engine within 45-days of receipt of the Citation pursuant to section 2186(d) below, no penalty shall be assessed. An owner of a heavy-duty vehicle who has

been issued a Citation for a tampered ECL label and who has failed to have a replacement label affixed to the engine within 45-days of service of the Citation as set forth in section 2186(a)(3) below shall be subject to a \$300 penalty.

(B) After the first year from the effective date of the amended regulation, [date to be inserted], the owner shall receive a citation, which may not be waived, assessing the owner a \$300 penalty.

(4) Penalties for Violations of Section 2183(c). The owner of a heavy-duty commercial vehicle that is cited for a violation of section 2183(c) shall be subject to the following penalties:

(A) The owner shall be subject to a penalty of \$300 for each violation.

(B) For the purposes of section 2185(a)(4), it shall be presumed that a heavy-duty commercial vehicle with a tampered ECL is not in compliance with section 2183(c) and is subject to a \$300 penalty for each violation in addition to the penalties provided for under section 2185(a)(3). If the owner demonstrates to ARB that a new ECL has been affixed to the vehicle's engine within 45-days of receipt of the Citation, pursuant to section 2186(a)(3) below, and the ECL demonstrates that the vehicle's engine was designed to at least meet U.S. EPA promulgated emission standards for the year of the engine's manufacture, the penalty for violation of section 2183(c) shall be waived.

(b) (1) No Citation shall be issued to the owner of a heavy-duty vehicle powered by a pre-1991 model-year diesel engine on the basis of a measured smoke opacity exceeding 55 percent but not exceeding 69 percent, unless:

(A) the owner fails to provide a demonstration of correction within 45 days from personal or certified mail receipt of the Notice of violation, or

(B) a Notice of violation or Citation has been issued for the vehicle in the preceding 12 months.

(2) The owner of a heavy-duty vehicle that is the subject of a Notice of violation and for which demonstration of correction is provided within 45 days from personal or certified mail receipt of the Notice of violation shall not be subject to a penalty for the violation.

- (3) The owner of a heavy-duty vehicle that is initially subject to a Notice of Violation, but is cited after a demonstration of correction is not provided within 45 days from personal or certified mail receipt of a Notice of Violation, shall be subject to the penalty in section 2185(a)(2)(B).
- (4) (A) Where a heavy-duty vehicle with a pre-1991 engine inspected in accordance with section 2181 has a measured opacity exceeding 55 percent but not exceeding 69 percent within 12 months of issuance of a Notice of Violation for which a demonstration of correction was timely provided within the applicable 45-day period, a Citation shall be issued and the owner shall be subject to the penalty in section 2185(a)(2)(B).
- (B) Where a heavy-duty vehicle with a pre-1991 engine inspected in accordance with section 2181 has a measured opacity exceeding 55 percent but not exceeding 69 percent within 12 months of issuance of a Notice of Violation for which a demonstration of correction was not timely provided within the applicable 45-day period, a Citation shall be issued and the owner shall be subject to the penalty in section 2185(a)(2)(CD).
- (c) If a heavy-duty vehicle fails the test procedure or an emission control system inspection one year or more after the date of its most recent failure, the owner of that vehicle shall be subject to the penalty schedule in section 2185(a)(2)(A) and (a)(2)(BC).
- (d) When a heavy-duty vehicle is cited after a bona fide change of ownership between non-related persons or entities, the new owner shall not be subject to the penalty schedule in section 2185(a)(2)(A) and (BC) if the only Citations issued for the vehicle within the previous 12 months were issued prior to the change of ownership to the new owner.
- (e) An owner who has been cited twice or more ~~tampered emission controls under 2182 and 2183(a) and (b)~~, other than for a tampered ECL, within 12 months of the most recently issued citation under the aforementioned subsections for on the same vehicle shall be subject to the penalty in section 2185(a)(2)(C), notwithstanding section 2185(c).

NOTE: Authority Cited: Sections 39600, 39601, 43013, 43016, 43701 and 44011.6, Health and Safety Code. Reference: Sections 39002, 39003, 39010, 39033, 43000, 43013, 43016, 43018, 43701, and 44011.6, Health and Safety Code. Sections 305, 505, and 545, Vehicle Code.

§ 2186. Demonstration of Correction and Post-Repair Test or Inspection.

- (a) Demonstration of Correction. The owner must demonstrate correction of the vehicle by submitting to the Air Resources Board documents demonstrating compliance with (1) or (2) or (3):
- (1) Where repairs are made at a repair facility, a repair receipt or a completed work order which contains the following information:
 - (A) Name, address, and phone number of the facility;
 - (B) Name of mechanic;
 - (C) Date of the repair;
 - (D) Description of component replacement(s), repair(s), and/or adjustment(s); and
 - (E) Itemized list of replaced component(s), including description of part, part number, and cost;
 - (2) Where the owner makes his or her own repairs outside of a repair facility,
 - (A) An itemized receipt for the parts used in the repair, and
 - (B) A statement identifying the date and nature of the repairs made;
 - (3) The owner of the heavy-duty vehicle who has received a Citation for a tampered ECL shall:
 - (A) Have the engine manufacturer through its authorized dealer, affix an emission control label identical to the label that was installed on the engine at the time of its original manufacturer;
 - (B) Provide written verification from the heavy-duty vehicle/engine manufacturer or its authorized dealer that the label has been replaced. The written verification must include identification of the engine serial number.
- (b) Statement of Correction. The owner must also submit to the Air Resources Board documents demonstrating compliance with (1) or (2) or (3):

- (1) Where the eCitation or Notice of Violation was based on a failure to meet the opacity standard applicable under section 2182, a smoke test report from a subsequent test showing that the repaired vehicle passed the applicable section 2182 standard along with a statement to that effect made under penalty of perjury by the person who conducted the subsequent test;
 - (2) Where the eCitation or Notice of Violation was based on a failure to pass an emission control system inspection as specified in section 2183, a statement by a person, under penalty of perjury, that the person has reinspected any components identified in the eCitation or Notice of Violation as defective or tampered and has determined that these components are correct, are installed, and are in good working order; or
 - (3) Where the eCitation was based on a violation of the Low NOx Rebuild Kit installation requirement as specified in section 2011(c), a statement by a person, under penalty of perjury, that the person has conducted a scan tool evaluation and has determined that the Low NOx Rebuild Kit has been installed.
- (c) The Air Resources Board shall require an ARB post-repair test or an ARB post-repair inspection whenever:
- (1) a submitted repair receipt or work order does not comply with (a) above;
 - (2) a repair receipt, or work order or authorized dealer verification appears to be falsified; or
 - (3) a second and subsequent failures of the test procedure or an emission control system inspection on the vehicle occur within a one-year period.

NOTE: Authority Cited: Sections 39600, 39601, 43013, 43701, 44011.6, Health and Safety Code. Reference: Sections 39002, 39003, 39010, 39033, 43000, 43013, 43018, 43701, and 44011.6, Health and Safety Code. Section 505, Vehicle Code.

§ 2187. Vehicles Removed from Service.

- (a) Vehicles are subject to removal from service by the Department of the California Highway Patrol if requested by the Air Resources Board inspector, and if one or more uncleared eCitations issued under section 2182 exist at the time of inspection.

- (b) Upon payment by ~~cashier's~~ bank check, ~~or~~ money order, or credit card of all unpaid penalties for a vehicle that has been removed from service, the Air Resources Board shall provide the owner, or designee, a release form for presentation to the Department of the California Highway Patrol.
- (c) The release of the vehicle shall be subject to the condition that it be repaired and post-repair tested or inspected within 15 days.

NOTE: Authority Cited: Sections 39600, 39601, 43013, 44011.6, Health and Safety Code.
Reference: Sections 39002, 39003, 39010, 39033, 43000, 43013, 43018, and 44011.6, Health and Safety Code.

Amend section 2188, title 13, California Code of Regulations to read as follows:

§ 2188. Contesting a Citation.

The owner of a vehicle cited under these regulations may request a hearing pursuant to sections 60075.1 et seq., ~~¶~~title 17, California Code of Regulations.

NOTE: Authority Cited: Sections 39600, 39601, 43013, 44011.6, Health and Safety Code.
Reference: Sections 39002, 39003, 39010, 39033, 43000, 43013, 43018, 43701, and 44011.6, Health and Safety Code.

§ 2189. Severability of Provisions.

If any subsection, paragraph, subparagraph, sentence, clause, phrase, or portion of this regulations is, for any reason, held invalid, unconstitutional, or unenforceable by any court or 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 regulation.

NOTE: Authority Cited: Sections 39600, 39601, 43013, 44011.6, Health and Safety Code.
Reference: Sections 39002, 39003, 39010, 39033, 43000, 43013, 43018, 43701, and 44011.6, Health and Safety Code.