

**PROPOSED REGULATION FOR ENERGY EFFICIENCY AND CO-BENEFITS
ASSESSMENT OF LARGE INDUSTRIAL FACILITIES**

Adopt new Article 3 in Subchapter 10, sections 95134 to 95147, title 17, California Code of Regulations, to read as follows:

**Article 3: Energy Efficiency and Co-Benefits Assessment of
Large Industrial Facilities**

§ 95134. Purpose

The purpose of this article is to require a one-time energy efficiency assessment of California's large industrial facilities in order to determine the potential for greenhouse gas emission reductions and other pollution reduction co-benefits.

NOTE: Authority Cited: Sections 39600, 39601, 41511, 38510, and 38530, Health and Safety Code. Reference: Sections 39600, 41511, and 38530, Health and Safety Code.

§ 95135. Applicability

- (a) Except as provided in subsection 95135 (b), this article applies to the following entities:
- (1) Operators of a facility with stationary sources in California that cumulatively produce 0.5 million metric tonnes of carbon dioxide (CO₂) equivalent (MMTCO₂E) or more annually, including the emissions associated with the generation of electrical power used that is obtained from an outside source. This cumulative total is to be determined by the reporting submitted by the facility operator to comply with the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions, sections 95100 to 95133, title 17, California Code of Regulations, for the calendar year 2009;
 - (2) Operators of any petroleum refinery in California that produces petroleum-based transportation fuels that are released into commerce and that produces 0.25 MMTCO₂E or more annually as determined by the reporting submitted by the facility operator to comply with the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions, sections 95100 to 95133, title 17, California Code of Regulations, for the calendar year 2009; or
 - (3) Operators of any cement plant in California that produces 0.25 MMTCO₂E or more annually as determined by the reporting submitted by the facility operator to comply with the Regulation for the Mandatory Reporting of

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Greenhouse Gas Emissions, sections 95100 to 95133, title 17, California Code of Regulations, for the calendar year 2009.

- (b) The Executive Officer may request a demonstration from any entity operating a facility in California to establish that a specified facility does not meet the applicability criteria specified in section 95135(a). Such demonstration shall be provided to the Executive Officer within 30 days of a written request received from the Executive Officer.

NOTE: Authority Cited: Sections 39600, 39601, 41511, 38510, and 38530, Health and Safety Code. Reference: Sections 39600, 39601, 41511, 38510, and 38530, Health and Safety Code. Reference: Sections 39600, 41511, and 38530, Health and Safety Code.

§ 95136. Exemptions.

The requirements of this article do not apply to the following:

- (a) Combined cycle electricity generating facilities built after 1995;
- (b) Petroleum refineries that do not produce transportation fuels; and
- (c) Mobile combustion sources as defined in section 95137(a)(40) or portable equipment as defined in section 95137(a)(53).

§ 95137. Definitions.

- (a) For the purposes of this article, the following definitions apply:
 - (1) “ARB” means the California Air Resources Board.
 - (2) “Assessment Report” or “report” means the energy efficiency assessment report prepared by an operator or third party entity and submitted to ARB in order to comply with sections 95138 and 95139.
 - (3) “Average recurring annual budgetary cost” means the expected annual budgetary cost associated with implementing an energy efficiency improvement project, averaged over the project life. The annual cost shall include, but is not limited to, operation and maintenance of the energy efficiency improvement project.
 - (4) “British Thermal Unit” or “Btu” means the quantity of heat required to raise the temperature of one pound of water by one degree Fahrenheit at about 39.2 degrees Fahrenheit.

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- (5) “Budgetary cost estimate” means a cost estimate that is used for project comparison purposes, but does not require detailed engineering and therefore has a correspondingly lower accuracy.
- (6) “Calendar year” means the time period from January 1 through December 31.
- (7) “California Environmental Quality Act” or “CEQA” means the California law that sets forth a process for public agencies to make informed decisions on discretionary project approvals by requiring environmental impacts associated with a proposed project be eliminated or reduced and air quality mitigation measures be implemented.
- (8) “Carbon dioxide” or “CO₂” means the most common of the six primary greenhouse gases, consisting on a molecular level of a single carbon atom and two oxygen atoms.
- (9) “Carbon dioxide equivalent” or “CO₂ equivalent” or “CO₂E” means a measure for comparing carbon dioxide with other GHGs, based on the quantity of those gases multiplied by the appropriate global warming potential (GWP) factor and commonly expressed as metric tonnes of carbon dioxide equivalents (MTCO₂E).
- (10) “Cement plant” means an industrial structure, installation, plant, or building primarily engaged in manufacturing Portland, natural, masonry, pozzolanic, and other hydraulic cements, and typically identified by NAICS code 327310.
- (11) “Clinker” means the mass of fused material produced in a cement kiln from which finished cement is manufactured by milling and grinding.
- (12) “Combined cycle electricity generating facility” means an electricity generating facility that uses the waste heat from a gas turbine to provide heat energy for a steam turbine.
- (13) “Criteria air pollutant” means an air pollutant for which acceptable levels of exposure can be determined and for which an ambient air quality standard has been set. Examples include ozone, carbon monoxide, nitrogen dioxide, sulfur dioxide, particulate matter with aerodynamic diameters of 10 microns or less (PM₁₀) and PM 2.5.
- (14) “Distillate fuel oil” means a general classification for a petroleum fraction produced in conventional distillation operations. It includes diesel fuels and fuel oils.
- (15) “Electricity generating facility” means a facility that generates electricity and includes one or more generating units at the same location.

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- (16) “Emissions” means the release of greenhouse gases, criteria air pollutants, or toxic air contaminants into the atmosphere from sources and processes in a facility.
- (17) “Emissions data report” or “greenhouse gas emissions data report” means the report prepared by an operator each year and submitted by electronic means to ARB that provides the information required by the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions, sections 95100 to 95133, title 17, California Code of Regulations.
- (18) “Energy” means any source of usable heat or power, such as fuel or electricity.
- (19) “Energy efficiency” means a measure of the relative quantity of energy required to accomplish a task with the minimum energy expenditure.
- (20) “Energy efficiency assessment” means a thorough evaluation of a facility’s energy consumption, associated emissions analysis, and energy efficiency improvement opportunities as specified in section 95138.
- (21) “Energy efficiency improvement project” means an undertaking involving such activities including, but not limited to, improvement in maintenance or other practices, monitoring systems, specific processes, or new or improved technologies, in order to increase energy efficiency at a facility.
- (22) “Entity” means a person, firm, association, organization, partnership, business trust, corporation, limited liability company, company, or government agency.
- (23) “Equipment” means any stationary article, machine, or other contrivance, or combination thereof, used for specific purposes within a facility; equipment shall not mean portable equipment, tactical support equipment, mobile vehicles, or generating units designated as backup or emergency generators in a permit issued by an air pollution control district or air quality management district.
- (24) “Executive Officer” means the Executive Officer of the ARB or his or her delegate.
- (25) “Facility” means any property, plant, building, structure, stationary source, stationary equipment or grouping of stationary equipment or stationary sources located on one or more contiguous or adjacent properties, in actual physical contact or separated solely by a public roadway or other public right-of-way, and under common operational control, that emits or may emit any greenhouse gas.

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- (26) “Fluorine” means the most reactive nonmetallic element, generally designated with the symbol “F” and with an atomic weight of 18.9984.
- (27) “Fuel” means solid, liquid, or gaseous combustible material used to create heat or power.
- (28) “Global warming potential” or “GWP factor” means the radiative forcing impact of one mass-based unit of a given greenhouse gas relative to an equivalent unit of carbon dioxide over a given period of time.
- (29) “Greenhouse gas” or “greenhouse gases” or “GHG” means carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), sulfur hexafluoride (SF₆), hydrofluorocarbons (HFCs), and perfluorocarbons (PFCs).
- (30) “Greenhouse gas source” means any physical unit, process, or other use or activity that emits a greenhouse gas.
- (31) “Hydrocarbons” means chemical compounds containing predominantly carbon and hydrogen.
- (32) “Hydrofluorocarbons” or “HFCs” means a class of GHGs primarily used as refrigerants, consisting of hydrogen, fluorine, and carbon.
- (33) “Hydrogen” means the lightest of all elements, designated by the symbol “H” and with an atomic weight of 1.00797; commonly exists as a gas consisting on the molecular level of two hydrogen atoms.
- (34) “Kerosene” means a light distillate fuel that includes No.1-K and No. 2-K as well as other grades of range or stove oil that have properties similar to those of No. 1 fuel oil.
- (35) “Key activity” means an activity performed within a facility that possesses major significance.
- (36) “Kiln” means a device, including any associated preheater or precalciner devices, that produce clinker by heating limestone and other materials for subsequent production of Portland or other cement.
- (37) “Kilowatt hour” or “kWh” means the electrical energy unit of measure equal to one thousand watts of power supplied to, or taken from, an electric circuit steadily for one hour. (A watt is a unit of electrical power equal to one ampere under pressure of one volt, or 1/746 horsepower.)
- (38) “Methane” or “CH₄” means a colorless, odorless, flammable gas consisting on the molecular level of a single carbon atom and four hydrogen atoms.

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- (39) “Metric tonne” or “MT” or “tonne” means a common international measurement for the quantity of GHG emissions, equivalent to about 2204.6 pounds of 1.1 short tons.
- (40) “Mobile combustion source” means a source of emissions resulting from combustion by a vehicle of other non-stationary, self-propelled combustion sources that produces greenhouse gas, criteria pollutant, and toxic air contaminant emissions. Mobile combustion sources include, but are not limited to, passenger cars, large/heavy duty truck cabs and chassis, light and medium duty trucks and vans, motorcycles, public transit buses, military tanks or other tracked military vehicles, mobile cranes, bulldozers, concrete mixers, street cleaners, golf carts, all terrain vehicles, trains, airplanes, boats, ships, implements of husbandry, and hauling equipment used inside and around airports, docks, depots, and industrial and commercial plants.
- (41) “MMBtu” mean million British thermal units. $MMBtu = MWhr \times 3.412$.
- (42) “MWhr” means megawatt hours; equal to one million watt hours.
- (43) “Nitrous oxide” or “N₂O” means a GHG consisting at the molecular level of two nitrogen atoms and a single oxygen atom.
- (44) “No. 1 fuel oil” means a light petroleum distillate fuel oil that meets the specifications of ASTM Specification D396-07.
- (45) “North American Industry Classification System” or “NAICS” means a standard for use by Federal statistical agencies in classifying business establishments for the collection, analysis, and publication of statistical data related to the business economy of the United States.
- (46) “Operational control” means the authority to introduce and implement operating, environmental, health, and safety policies. In any circumstance where this authority is shared among multiple entities, the entity holding the permit to operate from the local air pollution control district or air quality management district is considered to have operational control for purposes of this regulation.
- (47) “Operator” means the entity having operational control of a facility, or other entity, from which an Assessment Report is required under this regulation.
- (48) “Outside source” means a source of electricity not contained within a facility.
- (49) “Oxides of nitrogen or NO_x” means compounds of nitric oxide (NO), nitrogen dioxide (NO₂), and other oxides of nitrogen, which are typically created during combustion processes and are major contributors to smog formation and acid deposition.

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- (50) “Perfluorocarbons” or “PFCs” means a class of greenhouse gases consisting on the molecular level of carbon and fluorine.
- (51) “Petroleum” means an oily, thick, flammable liquid that is a mixture of various hydrocarbons occurring naturally within the earth and includes oil derived from tar sands, shale, and coal.
- (52) “Petroleum refinery” or “refinery” means any facility engaged in producing gasoline, aromatics, kerosene, distillate fuel oils, residual fuel oils, lubricants, or other products through distillation of petroleum or through redistillation, cracking, rearrangement, or reforming of unfinished petroleum derivatives.
- (53) “Portable” is defined in title 17, California Code of Regulations, section 93116.2(a)(28).
- (54) “Portland cement” means hydraulic cement (cement that not only hardens by reacting with water but also forms a water-resistant product) produced by pulverizing clinkers consisting essentially of hydraulic calcium silicates, usually containing one or more of the forms of calcium sulfate as an inter-ground addition.
- (55) “Process” means an action or series of actions performed in progressive and interdependent steps by equipment within a facility to produce or aid in producing a product such as cement, fuel, electricity, hydrogen, or other chemicals.
- (56) “Process flow diagram” means a schematic representation of a facility which identifies the processes or systems within the facility and any interaction between the processes or systems such as transfer of material or energy from one process or system to another.
- (57) “Project life” means the length of time an energy efficiency improvement project is expected to be employed.
- (58) “Reactive Organic Gas” means a photochemically reactive chemical gas, composed of non-methane hydrocarbons, that may contribute to the formation of smog.
- (59) “Residual fuel oil” means a general classification for the heavier oils, known as No. 5 and No. 6 fuel oils, that remain after the distillate fuel oils and lighter hydrocarbons are distilled away in refinery operations.
- (60) “Source” means a piece of equipment, process or facility that emits greenhouse gases, criteria air pollutants or toxic air contaminants.

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- (61) “Sulfur hexafluoride” or “SF₆” means a GHG consisting on the molecular level of a single sulfur atom and six fluorine atoms.
- (62) “System” means a group of interacting, interrelated, or interdependent processes within a facility.
- (63) “Tactical support equipment” means equipment using a portable engine, including turbines, that meets military specifications, owned by the U.S. Department of Defense and/or the U.S. military services or its allies, and used in combat, combat support, combat service support, tactical or relief operations, or training for such operations. Examples include, but are not limited to, engines associated with portable generators, aircraft start carts, heaters and lighting carts.
- (64) “Third party” means an entity hired by, but not otherwise affiliated with, a facility to conduct the facility’s energy efficiency and co-benefits assessment and/or develop the facility Assessment Report.
- (65) “Ton” means a short ton equal to 2,000 pounds.
- (66) “Toxic air contaminant” means an air pollutant, identified in regulation by the ARB, which may cause or contribute to an increase in deaths or in serious illness, or which may pose a present or potential hazard to human health.
- (67) “Transportation fuel” means a fuel produced in a petroleum refinery to be sold into commerce for transportation purposes.
- (68) “Watt hour” means a unit of energy, especially electrical energy, equal to the work done by one watt acting for one hour.

NOTE: Authority Cited: Sections 39600, 39601, 41511, 38510, and 38530, Health and Safety Code. Reference: Sections 39600, 39601, 41511, 38510, and 38530, Health and Safety Code. Reference: Sections 39600, 41511, and 38530, Health and Safety Code.

§ 95138. Energy Efficiency Assessment Requirements.

- (a) ***Facility Energy Consumption and Emissions Analysis.*** The operator of each applicable facility described in section 95135(a) shall conduct an energy consumption and emissions analysis that identifies the facility’s processes and equipment types used in the processes, and provides facility energy consumption and resulting CO₂, criteria air pollutant, and toxic air contaminant emissions. The energy consumption and emissions analysis shall be provided to the Executive Officer according to the reporting schedule identified in section 95139 and include information below and any additional information specified in section 95139.

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- (1) Facility name, identification number, physical address, mailing address, location, NAICS code;
- (2) Company name (if different than facility name);
- (3) Name and contact information including email address and telephone number of the facility operator submitting the Assessment Report and the person primarily responsible for preparing and submitting the Assessment Report;
- (4) If the assessment were conducted by a third party, the name and contact information including email address and telephone number of the company conducting and submitting the Assessment Report and the person primarily responsible for preparing the Assessment Report;
- (5) Process flow diagram of the facility, identifying each process, system, or key activity;
- (6) Name and description of each process, system, or key activity and the equipment types used for each;
- (7) Types of energy used for each process, system, or key activity (i.e., natural gas, purchased electricity, etc.), and whether the energy is purchased or produced by the facility;
- (8) Facility energy use and emissions as indicated below:
 - a. amount of fuel consumed in 2009 for each fuel type (in MMBtu);
 - b. amount of electricity consumed in 2009 (in MMBtu);
 - c. total energy consumption (sum of b. and c. above);
 - d. greenhouse gas emissions reported as CO₂E emissions resulting from each the electricity use and fuel combustion in b. and c. above;
 - e. criteria air pollutant emissions reported by the facility to the local air pollution control or air quality management district in 2009, except as provided in (11) or (12) below, as required by Health and Safety Code, section 40701(g), and local air pollution control or air quality management district rules;
 - f. toxic air contaminant emissions reported by the facility to the local air pollution control or air quality management district in 2009, except as provided in (11) or (12) below, as required by Health and Safety Code, sections 44340 and 44344 and the Emission Inventory Criteria and Guidelines Report for the Air Toxics “Hot Spots” Program, Title 17, California Code of Regulations, section 93000.5.
- (9) Copy of the facility report submitted to the local air pollution control or air quality management district in 2009, except as provided in (11) below, that corresponds to (8)e. and (8)f. above;
- (10) Facility energy use and emissions reported in (8)a. through (8)d. above shall correspond to the facility’s verified or certified greenhouse gas emissions data report submitted in accordance with the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions, sections 95100 to 95133, title 17, California Code of Regulations for the 2009 calendar year;
- (11) Upon approval from the Executive Officer, the operator may provide criteria and or toxics emissions inventory data from a different calendar year(s) or a

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three-year average. Any request for approval for submittal of emissions inventory data from alternative calendar years or a three-year average must be made in writing by the operator and submitted to the Executive Officer no later than December 1, 2011. The Executive Officer has 30 days to act on the request and shall notify the operator in writing of the decision.

- (12) Facilities that were not required to report or are not reporting to the local air pollution control or air quality management district criteria air pollutant and/or toxic air contaminant emissions shall include those emissions following the requirements of Health and Safety Code sections 40701(g), 44340, and 44344, local air pollution control or air quality management district rules, and the Emission Inventory Criteria and Guidelines Report for the Air Toxics “Hot Spots” Program, Title 17, California Code of Regulations, section 93000.5.

- (b) **Energy Efficiency Improvement Analysis.** The operator of each applicable facility described in section 95135(a) shall conduct an analysis of the energy efficiency improvement opportunities that exist at the facility. The analysis shall include a complete assessment of all potential opportunities, ranging from low-cost projects that could be implemented quickly to mid- and long-term projects requiring higher capital expenditures and that may have more extensive facility impacts. Emerging technologies that are not yet commercially available may also be considered. Where appropriate or applicable, a facility operator may use an energy assessment conducted for their facility by a state- or federally-sponsored energy assessment program in order to meet applicable portions of the requirements in this subsection. The energy efficiency improvement analysis shall be provided to the Executive Officer according to the reporting schedule identified in section 95139 and include information below and any additional information specified in section 95139.

- (1) Existing facility equipment, process, system, or key activity involved;
- (2) Type of potential improvement, including, but not limited to, equipment upgrades or modifications, process changes, changes to operating procedures or maintenance practices, or investment in new technologies;
- (3) Summary description of the potential improvement, including but not limited to, a description of the system(s) involved and the energy efficiency issues that have been identified, and a description of how the improvement would benefit energy efficiency;
- (4) Status of the improvement (i.e., under investigation, scheduled, on-going, completed, or not implementing);
- (5) Estimated time frame for the project implementation and the estimated completion date for those that are under investigation, scheduled, or on-going, and the actual completion date for those that have been implemented;
- (6) Estimated total one-time budgetary costs (in 2011 dollars), including, but not limited to, capital costs of equipment, installation, design, construction, and permits;
- (7) Estimated total average recurring annual budgetary costs (in 2011 dollars), including, but not limited to, operation and maintenance;

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- (8) Estimated project life;
 - (9) Estimated average annual energy savings;
 - (10) Estimated average annual GHG emission reductions and associated criteria pollutant and toxic air contaminant emission increase or decrease;
 - (11) Estimated annual cost savings (in 2011 dollars), if applicable;
 - (12) Specification in detail of the estimation method, source test method, or other measurement method that was used to quantify the estimated GHG, criteria pollutant, and toxic air contaminant emission impacts in (7) above. The estimation method shall include, but is not limited to, emission factors, control efficiency assumptions, and any other key assumptions used.
 - (13) Identification of any air quality permit requirements with the local air pollution control or air quality management district;
 - (14) California Environmental Quality Act requirements; and
 - (15) Other implementation considerations (including, but not limited to building, zoning, operational, safety, noise, water, and other environmental impacts).
- (c) **Procedures for De Minimis Sources.** For the Energy Efficiency Improvement Analysis in (b) above, the operator must include in the analysis of potential improvement projects in (b) above the equipment, processes, or systems that cumulatively are responsible for at least 95 percent of the facility's total CO₂E emissions reported in section 95138(a). The operator shall identify the excluded energy consumers designated as *de minimis* by equipment type and numbers of pieces of equipment per type.
- (d) **Fuel Use Measurement Accuracy.** The operator shall employ procedures for fuel use data measurements in accordance with the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions, sections 95100 to 95133, title 17, California Code of Regulations.

§ 95139. Reporting Requirements.

The operator of each applicable facility described in section 95135(a) shall submit the data specified in section 95138 and the following information, collectively referred to as the Assessment Report, to the Executive Officer according to the following:

- (a) By December 15, 2011, the operator of each applicable facility described in section 95135(a) shall submit the Assessment Report to the Executive Officer.
- (b) The Assessment Report shall be submitted to the Air Resources Board using the following address:

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California Air Resources Board
Stationary Source Division, Energy Assessments
1001 I Street
P.O. Box 2815
Sacramento, California 95812-2815

- (c) An alternative method, including electronic submittals, may be approved by the Executive Officer.

§ 95140. Document Retention, Recordkeeping, and Additional Data Requirements.

- (a) **General Requirements.** The operator shall establish and document a system that provides clarity, transparency, and completeness of data and processes sufficient to facilitate replication of the Assessment Report information as specified by this article. The operator shall complete an Assessment Report that is in conformance with the data collection methodologies specified in their Assessment Report.
- (b) **Document Retention and Recordkeeping.** The operator shall retain documents regarding the procedures used to obtain the data supplied as specified by this article for a minimum of five years following submittal of the Assessment Report.
- (c) **Additional Data Requirements.** Upon written request by ARB, the operator shall within 30 days of receipt of the written request provide ARB access to all documents, including data and methodologies, used to develop the Assessment Report.

§ 95141. Compliance Extension for Assessment Report Submittal.

A facility operator may be granted a compliance extension to the Assessment Report submittal deadline specified in section 95139(a) as provided below.

- (a) The Executive Officer may grant, in writing, up to a 45-day compliance extension upon determining the following conditions have been met:
 - (1) The facility operator has requested the compliance extension by November 15, 2011;
 - (2) The facility operator has described the reason(s) for the request for a compliance extension and has identified the additional time required for completion of the Assessment Report; and
 - (3) The requested compliance extension does not exceed 45 days.
- (b) If a compliance extension is granted by the Executive Officer, the facility shall be deemed to be in compliance as specified by the Executive Officer's authorization.

§ 95142. Assessment Report Review, Validation, and Public Disclosure.

- (a) Within 45 days of receipt of an Assessment Report, the Executive Officer shall review the Assessment Report and determine whether it is complete as required in section 95138 and the data submitted is valid, using emissions calculation methodologies provided with the Assessment Report as required in section 95138(b) and previously reported data, as required in section 95138(a). The Executive Officer shall notify the facility operator of any deficiencies in the Assessment Report. The facility operator and the Executive Officer may mutually agree to a longer time period for reaching a decision on the completeness of the Assessment Report, and additional supporting documentation may be submitted by the facility operator before the Executive Officer deems the Assessment Report to be complete. If the Assessment Report is deemed incomplete, the Executive Officer will notify the facility operator in writing, via either an electronic submission or hard copy, of the determination of an incomplete Assessment Report and may require the operator to conduct a third-party assessment following the requirements in section 95143.
- (b) The Executive Officer will establish an Internet site (“Assessment Report Internet site”) in which all Assessment Reports will be made available to the public. Completed Assessment Reports submitted to ARB will be posted on the Assessment Report Internet site by April 30, 2012.

§ 95143. Third Party Assessment Report.

- (a) In the event that an operator is required per section 95142(a) to complete a new Assessment Report, conducted by a third party, all requirements of sections 95138 through 95140 shall apply.
 - (1) Within 60 days of receiving notification from ARB of its determination of an incomplete Assessment Report, the operator must submit a written application to the Executive Officer for approval of the operator’s chosen third party assessor. The application must include the following:
 - a. third party assessor company name;
 - b. third party assessor contact name, title, address, phone number, and email address;
 - c. demonstration of the third party assessor’s qualifications to effectively conduct a facility-wide Assessment Report as required by this regulation;
 - d. a quote from the third party assessor for conducting the assessment;
 - e. a signed statement from the third party assessor that they have no interest, material or otherwise, in the facility or relationship with facility personnel or owners that could be construed as adversely affecting their impartiality; and

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- f. a signed statement from the facility operator that they have no interest, material or otherwise, in the third party assessor or relationship with the third party assessor’s company or personnel that could be construed as adversely affecting their impartiality;
- (2) The Executive Officer shall approve the third party assessor selected by the facility upon determining that the requirements of (a)(1) above have been met.
- (3) The operator must submit the completed third party Assessment Report within 90 days of receiving Executive Officer approval of the third party assessor.

§ 95144. Confidentiality.

- (a) Emissions data submitted to the ARB under this article is public information and shall not be designated as confidential.
- (b) Any entity submitting information to the ARB pursuant to this article may designate information that is not emissions data as confidential because it is a trade secret or otherwise exempt from public disclosure under the California Public Records Act (Government Code section 6250 et seq.). All such requests for confidentiality shall be handled in accordance with the procedures specified in title 17, California Code of Regulations, sections 91000 to 91022.

NOTE: Authority cited: Sections 38580, 39600, 39601, 41511, 38510, and 38530, Health and Safety Code. Reference: Sections 38580, 39600, 41511, and 38530, Health and Safety Code.

§ 95145. Enforcement.

- (a) Submission of false information to the Executive Officer or an agent or representative of the Air Resources Board, shall constitute a single, separate violation of the requirements of this article for each day after the information has been received by the Executive Officer.
- (b) Failure to submit any report or to include in a report all information required by this article, or late submittal of the report, shall constitute a separate violation of this article for each day that the report has not been submitted beyond the required submittal date, as specified in section 95139. For the purposes of this section, “report” means any document required to be submitted by this article.

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NOTE: Authority cited: Sections 38580, 39600, 39601, 41511, 38510, and 38530, Health and Safety Code. Reference: Sections 38580, 39600, 41511, and 38530, Health and Safety Code.

§ 95146. Severability.

Each part of this article shall be deemed severable, and in the event that any provision of this article is held to be invalid, the remainder of this article shall continue in full force and effect.

NOTE: Authority cited: Sections 39600, 39601, 41511, 38510, and 38530, Health and Safety Code. Reference: Sections 39600, 41511, and 38530, Health and Safety Code.

§ 95147. Incorporation by Reference.

The following documents are incorporated by reference into this article. These materials are incorporated as they exist on the date this article is adopted.

- (a) Regulation for the Mandatory Reporting of Greenhouse Gas Emissions, Subchapter 10, Article 2, title 17, California Code of Regulations.