

ATTACHMENT 2

MODIFIED REGULATORY LANGUAGE FOR PUBLIC COMMENT

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

Note: This document shows the modifications to the originally proposed regulation set forth in Appendix A to the Staff Report: Initial Statement of Reasons, and released to the public on June 2, 2010. This document is printed in a style to indicate changes from the originally proposed regulatory language. All originally proposed regulatory language is indicated by plain type. The suggested modifications are shown in underline to indicate additions to the original proposal and ~~strike through~~ to indicate deletions.

Adopt new Article 2.1 in Subchapter 10, sections 95150 to 95162, title 17, California Code of Regulations, to read as follows:

Article 2.1: Energy Efficiency and Co-Benefits Assessment of Large Industrial Facilities

§ 95150. Purpose

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

NOTE: Authority Cited: Sections 38510, 38530, 38560, 38562, 39600, 39601, 39659, and 41511, Health and Safety Code. Reference: Sections 38501, 38505, 38510, 38530, 38550, 38551, 38560, 38561, 38562, 38563, 39003, 39500, 39600, 39601, 39659, and 41511, Health and Safety Code.

§ 95151. Applicability

(a) Except as provided in subsection 95152, this article applies to the following entities:

- (1) Operators of a California facility, where the facility has with stationary sources ~~in California~~ that produce greenhouse gas emissions of 0.5 million metric tonnes of carbon dioxide (CO₂) equivalent (MMTCO₂e) or more annually. This 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

greenhouse gas emissions of 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; and

- (3) Operators of any cement plant in California that produces greenhouse gas emissions of 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.
- (b) The Executive Officer may request a demonstration from any entity operating a facility to establish that a specified facility does not meet the applicability criteria specified in section 95151(a). Such demonstration must be provided to the Executive Officer within 30 days of a written request received from the Executive Officer.

NOTE: Authority Cited: Sections 38510, 38530, 38560, 38562, 39600, 39601, 39659, and 41511, Health and Safety Code. Reference: Sections 38501, 38505, 38510, 38530, 38550, 38551, 38560, 38561, 38562, 38563, 39003, 39500, 39600, 39601, 39659, and 41511, Health and Safety Code.

§ 95152. 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 95153(a)(40) or portable equipment as defined in section 95153(a)(53).

NOTE: Authority Cited: Sections 38510, 38530, 38560, 38562, 39600, 39601, 39659, and 41511, Health and Safety Code. Reference: Sections 38501, 38505, 38510, 38530, 38550, 38551, 38560, 38561, 38562, 38563, 39003, 39500, 39600, 39601, 39659, and 41511, Health and Safety Code.

§ 95153. 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 report of the facility energy consumption and emissions analysis and energy efficiency improvement

analysis prepared by an operator or third party entity and submitted to ARB pursuant to sections 95154 and 95155.

- (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 must 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.
- (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 California Public Resources Code Sections 21000 et seq.
- (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 substances identified in title 17, California Code of Regulations, Section 70200. 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) “District” has the same meaning as defined in the California Health and Safety Code, Section 39025.
 - (16) “Electricity generating facility” means a facility that generates electricity and includes one or more generating units at the same location.
 - (17) “Emissions” means the release of greenhouse gases, criteria air pollutants, or toxic air contaminants into the atmosphere from sources and processes in a facility.
 - (18) “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.
 - (19) “Energy” means any source of usable heat or power, such as fuel or electricity.
 - (20) “Energy efficiency” means a measure of the relative quantity of energy required to accomplish a task with the minimum energy expenditure.
 - (21) “Energy efficiency assessment” means an assessment as specified in section 95154.
 - (22) “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.
 - (23) “Entity” means a person, firm, association, organization, partnership, business trust, corporation, limited liability company, company, or government agency.
 - (24) “Equipment” means any stationary article, machine, or other contrivance, or combination thereof, used for specific purposes within a facility; equipment does not mean portable equipment, tactical support equipment, mobile vehicles, or generating units designated as backup or emergency generators in a permit issued by District.

- (25) "Executive Officer" means the Executive Officer of the ARB or his or her delegate.
- (26) "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 gases.
- (27) "Fluorine" means the most reactive nonmetallic element, generally designated with the symbol "F" and with an atomic weight of 18.9984.
- (28) "Fuel" means solid, liquid, or gaseous combustible material used to create heat or power.
- (29) "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.
- (30) "Greenhouse gas" or "greenhouse gases" or "GHG" means carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), sulfur hexafluoride (SF₆), hydrofluorocarbons (HFCs), and perfluorocarbons (PFCs).
- (31) "Greenhouse gas source" means any physical unit, process, or other use or activity that emits a greenhouse gas.
- (32) "Hydrocarbons" means chemical compounds containing predominantly carbon and hydrogen.
- (33) "Hydrofluorocarbons" or "HFCs" means a class of GHGs primarily used as refrigerants, consisting of hydrogen, fluorine, and carbon.
- (34) "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.
- (35) "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.
- (36) "Kiln" means a device, including any associated preheater or precalciner device 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.
- (39) “Metric tonne” or “MT” or “tonne” means a common international measurement for the quantity of GHG emissions, equivalent to about 2204.6 pounds or 1.1 short tons.
- (40) “Mobile combustion source” means a source of emissions resulting from combustion by a vehicle or other non-stationary, self-propelled combustion sources that produces greenhouse gas, criteria air 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” means 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 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.
- (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 as 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.
- (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 assessment” as defined and/or develop the facility Assessment Report.
- (65) “Ton” means a short ton equal to 2,000 pounds.
- (66) “Toxic air contaminant” means a substance identified by the Air Resources Board as a toxic air contaminant pursuant to H&SC Section 39657.
- (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 38510, 38530, 38560, 38562, 39600, 39601, 39659, and 41511, Health and Safety Code. Reference: Sections 38501, 38505, 38510, 38530, 38550, 38551, 38560, 38561, 38562, 38563, 39003, 39500, 39600, 39601, 39659, and 41511, Health and Safety Code.

§ 95154. Energy Efficiency Assessment Requirements.

- (a) ***Facility Energy Consumption and Emissions Analysis.*** The operator of each applicable facility described in section 95151(a) must 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 greenhouse gas, criteria air pollutant, and toxic air contaminant emissions. The energy consumption and emissions analysis must be provided to the Executive Officer according to the reporting schedule identified in section 95155 and include the information below and any additional information specified in section 95155:

- (1) Facility name, ARB identification number as assigned under the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions, physical address, mailing address, geographic location (latitude and longitude at main gate or primary facility access point), NAICS code;
- (2) Company name (if different than facility name);
- (3) Name and contact information including email address and telephone number for the facility operator submitting the Assessment Report and for the person primarily responsible for preparing and submitting the Assessment Report, if different than the facility operator;
- (4) If the assessment is 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(s) of the facility, identifying each process or system and its geographic location;
- (6) Name and description of each process or system and the equipment types used in each;
- (7) Types of energy used in each process or system (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. ~~(A)~~ amount of fuel consumed in 2009 for each fuel type (in MMBtu);
 - b. ~~(B)~~ amount of electricity consumed in 2009 (in MMBtu);
 - c. ~~(C)~~ total energy consumption (sum of a. ~~(A)~~ and b. ~~(B)~~ above);
 - d. ~~(D)~~ greenhouse gas emissions in 2009, reported as CO₂e emissions, resulting from the fuel consumed in a. above and the electricity consumed in b. above reported by the facility to comply with the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions, sections 95100 to 95133, title 17, California Code of Regulations;
 - e. ~~(E)~~ criteria air pollutant emissions in 2009 reported by the facility to the ~~District~~ reported by the facility to the District in 2009 or the previous most recent 12-month period, except as provided in (10) below, as required by Health and Safety Code, section 40701(g), and District rules;
 - f. ~~(F)~~ toxic air contaminant emissions reported by the facility to the District in 2009 or the previous most recent 12-month period, except as provided in (10) below, as required by Health and Safety Code, sections 44340, 44341, and 44344 and the Emission Inventory Criteria and Guidelines Report for the Air Toxics "Hot Spots" Program, ~~¶~~ title 17, California Code of Regulations, section 93300.5.

- (9) Facility energy use and emissions reported in (8)~~a.(A)~~ through (8)~~d.(D)~~ above must be consistent with 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;
- (10) Upon approval from the Executive Officer, the operator may provide the criteria and or toxics emissions inventory data indicated in (8) from a different calendar year(s), 12-month period, or a three-year average. Any request for approval for submittal of emissions inventory data from alternative calendar years, 12-month period, 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 approve or disapprove the request and will notify the operator in writing of the decision.
- (11) Operators of facilities that were not required to report or are not reporting to the District facility criteria air pollutant and/or toxic air contaminant emissions shall include the most recent emissions calculated by the District for their facility, indicating the year to which the emissions are assigned.

(b) **Energy Efficiency Improvement Analysis.** The operator of each applicable facility described in section 95151(a) must conduct an analysis of the energy efficiency improvement opportunities that exist at the facility. The energy efficiency improvement analysis must:

- ~~1.~~(1) Identify potential improvement projects for equipment, processes, or systems that cumulatively account for at least 95 percent of the facility's total greenhouse gas emissions reported in section 95154(a);
- ~~2.~~(2) Include a comprehensive assessment of potential energy efficiency improvement opportunities;
- ~~3.~~(3) 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; and
- ~~4.~~(4) Be provided to the Executive Officer according to the reporting schedule identified in section 95155 and include information below and any additional information specified in section 95155 for each potential improvement evaluated:

~~a.~~(A) Existing facility equipment, process, or system involved;

~~b.~~(B) 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; potential improvement projects should encompass 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, and implemented projects may also be included;

- ~~e.~~(C) Summary description of each potential improvement, including but not limited to, a description of the equipment, process, or system(s) involved and the energy efficiency issues that have been identified, and a description of how the improvement would benefit energy efficiency;
- ~~d.~~(D) Status of the improvement (i.e., under investigation, scheduled, on-going, completed, or not implementing);
- e.(E) For any improvement projects not being implemented, provide a description of the rationale for not implementing the project;
- ~~f.~~(F) Estimated time frame (e.g., 18 months) for the project implementation, and the estimated completion date/year for these projects that are under investigation, scheduled, or on-going, and the actual completion ~~date~~ year for these projects that have been implemented;
- ~~g.~~(G) Estimated total one-time budgetary costs (in 2010 dollars), including, but not limited to, capital costs of equipment, installation, design, construction, and permits;
- ~~h.~~(H) Estimated total average recurring annual budgetary costs (in 2010 dollars), including, but not limited to, operation and maintenance;
- ~~i.~~(I) Estimated project life;
- ~~j.~~(J) Estimated average annual energy savings;
- ~~k.~~(K) Estimated associated average annual GHG emission reductions and criteria air pollutant and toxic air contaminant emission impacts;
- ~~l.~~(L) Estimated annual cost savings (in 2010 dollars), if applicable;
- ~~m.~~(M) Specification in detail of the estimation method, source test method, or other measurement method that was used to quantify the estimated GHG, criteria air pollutant, and toxic air contaminant emission impacts in ~~(10)(K)~~ above. The estimation method must include, but is not limited to, emission factors, control efficiency assumptions, and any other key assumptions used. The Executive Officer may work with the facility operator to determine appropriate values and may provide guidance for specific methodologies to be used;
- ~~n.~~(N) Identification of any District air quality permit requirements, California Environmental Quality Act requirements, and other implementation considerations (including, but not limited to building, zoning, operational, safety, noise, water, and other environmental impacts).

- (c) **Alternative Approach Using Energy Consumption.** For the Energy Efficiency Improvement Analysis in (b) above, the operator may identify potential improvement projects for equipment, processes, or systems that cumulatively account for at least 95 percent of the facility's total energy consumption as reported in section 95154(a), provided that the Executive Officer finds that this approach is equivalent to the approach contained in section 95154(b). The operator must identify the equipment excluded from the analysis by equipment type and numbers of pieces of equipment per type.

- (d) **Fuel Use Measurement Accuracy.** The operator must employ the procedures for fuel use data measurements as required by the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions, sections 95100 to 95133, title 17, California Code of Regulations.

NOTE: Authority Cited: Sections 38510, 38530, 38560, 38562, 39600, 39601, 39659, and 41511, Health and Safety Code. Reference: Sections 38501, 38505, 38510, 38530, 38550, 38551, 38560, 38561, 38562, 38563, 39003, 39500, 39600, 39601, 39659, and 41511, Health and Safety Code.

§ 95155. Reporting Requirements.

The operator of each applicable facility described in section 95151(a) must submit the data specified in section 95154 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 95151(a) must submit the Assessment Report to the Executive Officer.
- (b) The facility operator must sign a statement certifying that the information contained in the Assessment Report is true, accurate, and complete and that the operator is duly authorized to represent the facility on all matters related to the Assessment Report.
- (c) If the Assessment Report is conducted by a third party, the third party assessor must sign a statement certifying that the information contained in the Assessment Report is true, accurate, and complete and that the ~~operator~~ third party assessor is duly authorized to represent the ~~third party~~ facility and operator on all matters related to the Assessment Report.
- (d) The Assessment Report must be submitted to the Air Resources Board using the following address:

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

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

NOTE: Authority Cited: Sections 38510, 38530, 38560, 38562, 38580, 39600, 39601, 39659, and 41511, Health and Safety Code. Reference: Sections 38501, 38505, 38510, 38530, 38550, 38551, 38560, 38561, 38562, 38563, 38580, 39003, 39500, 39600, 39601, 39659, and 41511, Health and Safety Code.

§ 95156. Document Retention, Recordkeeping, and Additional Data Requirements.

- (a) **General Requirements.** The operator must 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 must 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 must 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 must 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.

NOTE: Authority Cited: Sections 38510, 38530, 38560, 38562, 38580, 39600, 39601, 39659, and 41511, Health and Safety Code. Reference: Sections 38501, 38505, 38510, 38530, 38550, 38551, 38560, 38561, 38562, 38563, 38580, 39003, 39500, 39600, 39601, 39659, and 41511, Health and Safety Code.

§ 95157. Compliance Extension for Assessment Report Submittal.

A facility operator may be granted a compliance extension to the Assessment Report submittal deadline specified in section 95155(a) as provided below.

- (a) The Executive Officer may grant, in writing, up to a 90-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 90 days.

NOTE: Authority Cited: Sections 38510, 38530, 38560, 38562, 38580, 39600, 39601, 39659, and 41511, Health and Safety Code. Reference: Sections 38501, 38505, 38510, 38530, 38550, 38551, 38560, 38561, 38562, 38563, 38580, 39003, 39500, 39600, 39601, 39659, and 41511, Health and Safety Code.

§ 95158. Assessment Report Review, Validation, and Public Disclosure.

- (a) Within 45 days of receipt of an Assessment Report, the Executive Officer will review the Assessment Report and determine whether it is complete as specified in section 95154, and whether the data submitted is valid and calculated using emissions calculation methodologies provided with the Assessment Report as required in section 95154(b) and using previously reported data, as required in section 95154(a). The Executive Officer will 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 95159.
- (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.

NOTE: Authority Cited: Sections 38510, 38530, 38560, 38562, 38580, 39600, 39601, 39659, and 41511, Health and Safety Code. Reference: Sections 38501, 38505, 38510, 38530, 38550, 38551, 38560, 38561, 38562, 38563, 38580, 39003, 39500, 39600, 39601, 39659, and 41511, Health and Safety Code.

§ 95159. Third Party Assessment Report.

- (a) In the event that an operator is required per section 95158(a) to complete a new Assessment Report, conducted by a third party, all requirements of sections 95154 through 95156 will 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 facility operator and the Executive Officer may mutually agree to a longer time period for submitting the written application. The application must include the following:
- a. (A) third party assessor company name;
 - b. (B) third party assessor contact name, title, address, phone number, and email address;
 - c. (C) demonstration of the third party assessor's qualifications to effectively conduct a facility-wide Assessment Report as required by this regulation;

- d. (D) a cost estimate from the third party assessor for conducting the assessment;
 - e. (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
 - f. (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 will 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. The facility operator and the Executive Officer may mutually agree to a longer time period for submitting the completed third party Assessment Report.

NOTE: Authority Cited: Sections 38510, 38530, 38560, 38562, 38580, 39600, 39601, 39659, and 41511, Health and Safety Code. Reference: Sections 38501, 38505, 38510, 38530, 38550, 38551, 38560, 38561, 38562, 38563, 38580, 39003, 39500, 39600, 39601, 39659, and 41511, Health and Safety Code.

§ 95160. Confidentiality.

- (a) Emissions data submitted to the ARB under this article is public information and would 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 they believe it to be 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 will be handled in accordance with the procedures specified in title 17, California Code of Regulations, sections 91000 to 91022.

NOTE: Authority Cited: Sections 38510, 38530, 38560, 38562, 39600, 39601, 39659, and 41511, Health and Safety Code. Reference: Sections 38501, 38505, 38510, 38530, 38550, 38551, 38560, 38561, 38562, 38563, 39003, 39500, 39600, 39601, 39659, and 41511, Health and Safety Code.

§ 95161. Enforcement.

- (a) Submission of inaccurate information to the Executive Officer or an agent or representative of the Air Resources Board, will constitute a 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, will 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 95155. For the purposes of this section, “report” means any document required to be submitted by this article.

NOTE: Authority Cited: Sections 38510, 38530, 38560, 38562, 38580, 39600, 39601, 39659, and 41511, Health and Safety Code. Reference: Sections 38501, 38505, 38510, 38530, 38550, 38551, 38560, 38561, 38562, 38563, 38580, 39003, 39500, 39600, 39601, 39659, and 41511, Health and Safety Code.

§ 95162. Severability.

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

NOTE: Authority Cited: Sections 38510, 38530, 38560, 38562, 39600, 39601, 39659, and 41511, Health and Safety Code. Reference: Sections 38501, 38505, 38510, 38530, 38550, 38551, 38560, 38561, 38562, 38563, 39003, 39500, 39600, 39601, 39659, and 41511, Health and Safety Code.