
TITLE 326 AIR POLLUTION CONTROL BOARD

Final Rule

LSA Document #05-116(F)

DIGEST

Adds [326 IAC 24-4](#) concerning mercury emissions from coal-fired power plants to implement the federal Clean Air Mercury Rule (CAMR). Effective 30 days after filing with the Publisher.

HISTORY

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Date of Second Hearing: October 3, 2007.

[326 IAC 24-4](#)

SECTION 1. [326 IAC 24-4](#) IS ADDED TO READ AS FOLLOWS:

Rule 4. Clean Air Mercury Rule (CAMR) Trading Program

[326 IAC 24-4-1](#) Applicability

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 1. (a) This rule establishes a mercury emissions budget and mercury trading program for coal-fired generating units. The following units in Indiana shall be mercury budget units, and any source that includes one (1) or more such units shall be a mercury budget source and shall be subject to the requirements of this rule, except as provided in subsection (b):

(1) Any:

(A) stationary, coal-fired boiler; or

(B) stationary, coal-fired combustion turbine;

servicing at any time, since the later of November 15, 1990, or the start-up of the unit's combustion chamber, a generator with nameplate capacity of more than twenty-five (25) megawatt electrical producing electricity for sale.

(2) If a stationary boiler or stationary combustion turbine that, under subdivision (1), is not a mercury budget unit begins to:

(A) combust coal or coal-derived fuel; or

(B) serve a generator with nameplate capacity of more than twenty-five (25) megawatt electrical producing electricity for sale;

the unit shall become a mercury budget unit as provided in subdivision (1) on the first date on which it both combusts coal or coal-derived fuel and serves such generator.

(b) Units that meet the following requirements shall not be mercury budget units:

(1) Any unit that is a mercury budget unit under subsection (a):

(A) qualifying as a cogeneration unit during the twelve (12) month period starting on the date the unit first produces electricity and continuing to qualify as a cogeneration unit; and

(B) not servicing at any time, since the later of November 15, 1990, or the start-up of the unit's combustion chamber, a generator with nameplate capacity of more than twenty-five (25) megawatt electrical supplying in any calendar year more than one-third (1/3) of the unit's potential electric output capacity or two hundred nineteen thousand (219,000) megawatt hours, whichever is greater, to any utility power distribution system for sale.

If a unit qualifies as a cogeneration unit during the twelve (12) month period starting on the date the

unit first produces electricity and meets the requirements of subdivision (1) for at least one (1) calendar year, but subsequently no longer meets all such requirements, the unit shall become a mercury budget unit starting on the earlier of January 1 after the first calendar year during which the unit first no longer qualifies as a cogeneration unit or January 1 after the first calendar year during which the unit no longer meets the requirements of subdivision (1)(B) [clause (B)].

(2) Any unit that is a mercury budget unit under subsection (a), is a solid waste incineration unit combusting municipal waste, and is subject to the requirements of any of the following:

(A) A state plan approved by the U.S. EPA in accordance with 40 CFR 60, Subpart Cb* (emissions guidelines and compliance times for certain large municipal waste combustors) and [326 IAC 11-7](#).

(B) 40 CFR 60, Subpart Eb* (standards of performance for certain large municipal waste combustors).

(C) 40 CFR 60, Subpart AAAA* (standards of performance for certain small municipal waste combustors).

(D) A state plan approved by the U.S. EPA in accordance with 40 CFR 60, Subpart BBBB* (emission guidelines and compliance times for certain small municipal waste combustion units).

(E) 40 CFR 62, Subpart FFF* (federal plan requirements for certain large municipal waste combustors).

(F) 40 CFR 62, Subpart JJJ* (federal plan requirements for certain small municipal waste combustion units).

*These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204.

(Air Pollution Control Board; [326 IAC 24-4-1](#); filed Jan 4, 2008, 1:38 p.m.: [20080130-IR-326050116FRA](#))

[326 IAC 24-4-2](#) Definitions

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-11-2](#); [IC 13-15](#); [IC 13-17](#)

Sec. 2. For purposes of this rule, the definition given for a term in this rule shall control in any conflict between [326 IAC 1-2](#) and this rule. In addition to the definitions provided in [IC 13-11-2](#) and [326 IAC 1-2](#), the following definitions apply throughout this rule, unless expressly stated otherwise or unless the context clearly implies otherwise:

(1) "Account number" means the identification number given by the U.S. EPA to each mercury allowance tracking system account.

(2) "Acid rain emissions limitation" means a limitation on emissions of sulfur dioxide or nitrogen oxides under the acid rain program.

(3) "Acid rain program" means a multistate sulfur dioxide and nitrogen oxides air pollution control and emission reduction program established by the U.S. EPA under Title IV of the Clean Air Act and 40 CFR Parts 72 through 78*.

(4) "Allocate" or "allocation" means, with regard to mercury allowances, the determination by a permitting authority or the U.S. EPA of the amount of such mercury allowances to be initially credited to a mercury budget unit, a new unit set-aside, a clean coal technology set-aside, or other entity.

(5) "Allowance transfer deadline":

(A) means, for a control period, midnight of March 1 (if it is a business day) or midnight of the first business day thereafter (if March 1 is not a business day) immediately following the control period; and

(B) is the deadline by which a mercury allowance transfer must be submitted for recordation in a mercury budget source's compliance account in order to be used to meet the source's mercury budget emissions limitation for such control period in accordance with section 9(i) and 9(j) of this rule.

(6) "Alternate mercury designated representative" means, for a mercury budget source and each mercury budget unit at the source, the natural person who is authorized by the owners and operators of the source and all such units at the source in accordance with section 6 of this rule to act on behalf of the mercury designated representative in matters pertaining to the mercury budget trading program. If the mercury budget source is also:

- (A) a CAIR NO_x source, then this natural person shall be the same person as the alternate CAIR designated representative under the CAIR NO_x annual trading program;
- (B) a CAIR SO₂ source, then this natural person shall be the same person as the alternate CAIR designated representative under the CAIR SO₂ trading program;
- (C) a CAIR NO_x ozone season source, then this natural person shall be the same person as the alternate CAIR designated representative under the CAIR NO_x ozone season trading program; and
- (D) subject to the acid rain program, then this natural person shall be the same person as the alternate designated representative under the acid rain program.
- (7) "Automated data acquisition and handling system" or "DAHS" means that component of the CEMS, or other emissions monitoring system approved for use under section 11 of this rule, designed to interpret and convert individual output signals from pollutant concentration monitors, flow monitors, diluent gas monitors, and other component parts of the monitoring system to produce a continuous record of the measured parameters in the measurement units required under section 11 of this rule.
- (8) "Boiler" means an enclosed fossil fuel-fired or other fuel-fired combustion device used to:
- (A) produce heat; and
- (B) transfer heat to recirculating water, steam, or other medium.
- (9) "Bottoming-cycle cogeneration unit" means a cogeneration unit in which:
- (A) the energy input to the unit is first used to produce useful thermal energy; and
- (B) at least some of the reject heat from the useful thermal energy application or process is then used for electricity production.
- (10) "CAIR NO_x annual trading program" means a multistate nitrogen oxides air pollution control and emission reduction program approved and administered by the U.S. EPA in accordance with [326 IAC 24-1](#), 40 CFR 96*, Subparts AA through II*, and 40 CFR 51.123*, or established by the U.S. EPA in accordance with 40 CFR 97, Subparts AA through II*, 40 CFR 51.123(p)*, and 40 CFR 52.35* as a means of mitigating interstate transport of fine particulates and nitrogen oxides.
- (11) "CAIR NO_x ozone season source" means a source that is subject to the CAIR NO_x ozone season trading program.
- (12) "CAIR NO_x ozone season trading program" means a multistate nitrogen oxides air pollution control and emission reduction program approved and administered by the U.S. EPA in accordance with [326 IAC 24-3](#), 40 CFR 96, Subparts AAAA through IIII*, and 40 CFR 51.123*, or established by the U.S. EPA in accordance with 40 CFR 97, Subparts AAAA through IIII*, 40 CFR 51.123(ee)*, and 40 CFR 52.35* as a means of mitigating interstate transport of ozone and nitrogen oxides.
- (13) "CAIR NO_x source" means a source that is subject to the CAIR NO_x annual trading program.
- (14) "CAIR SO₂ source" means a source that is subject to the CAIR SO₂ trading program.
- (15) "CAIR SO₂ trading program" means a multistate sulfur dioxide air pollution control and emission reduction program approved and administered by the U.S. EPA in accordance with [326 IAC 24-2](#), 40 CFR 96*, Subparts AAA through III, and 40 CFR 51.124*, or established in accordance with 40 CFR 97, Subparts AAA through III, 40 CFR 51.124(r)*, and 40 CFR 52.36* as a means of mitigating interstate transport of fine particulates and sulfur dioxide.
- (16) "Clean coal technology unit" means a unit employing any one (1) of the technologies listed in subdivision (61)(A) through (61)(F), regardless of whether the technology or technologies serve as a replacement.
- (17) "Coal" means any solid fuel classified as:
- (A) anthracite;
- (B) bituminous;
- (C) subbituminous; or
- (D) lignite;
- by the American Society of Testing and Materials (ASTM) Designation D388-05**.
- (18) "Coal-derived fuel" means any fuel, whether in a solid, liquid, or gaseous state, produced by the mechanical, thermal, or chemical processing of coal.
- (19) "Coal-fired" means combusting any amount of coal or coal-derived fuel, alone or in combination with any amount of any other fuel, during any year.
- (20) "Cogeneration unit" means a stationary, coal-fired boiler or stationary, coal-fired combustion turbine:
- (A) having equipment used to produce electricity and useful thermal energy for industrial, commercial, heating, or cooling purposes through the sequential use of energy; and
- (B) producing during the twelve (12) month period starting on the date the unit first produces electricity and during any calendar year after the calendar year in which the unit first produces electricity:
- (i) for a topping-cycle cogeneration unit:
- (AA) useful thermal energy not less than five percent (5%) of total energy output; and

(BB) useful power that, when added to one-half ($\frac{1}{2}$) of useful thermal energy produced, is not less than forty-two and one-half percent (42.5%) of total energy input, if useful thermal energy produced is fifteen percent (15%) or more of total energy output, or not less than forty-five percent (45%) of total energy input, if useful thermal energy produced is less than fifteen percent (15%) of total energy output; and

(ii) for a bottoming-cycle cogeneration unit, useful power not less than forty-five percent (45%) of total energy input.

(21) "Combustion turbine" means:

(A) an enclosed device comprising a compressor, a combustor, and a turbine and in which the flue gas resulting from the combustion of fuel in the combustor passes through the turbine, rotating the turbine; and

(B) if the enclosed device under clause (A) is combined cycle, any associated duct burner, heat recovery steam generator, and steam turbine.

(22) "Commence commercial operation" means, with regard to a unit, the following:

(A) To have begun to produce steam, gas, or other heated medium used to generate electricity for sale or use, including test generation, except as provided in section 3 of this rule, subject to the following:

(i) For a unit that is a mercury budget unit under section 1 of this rule on the later of November 15, 1990, or the date the unit commences commercial operation as defined in this clause and that subsequently undergoes a physical change, other than replacement of the unit by a unit at the same source, such date shall remain the date of commencement of commercial operation of the unit, which shall continue to be treated as the same unit.

(ii) For a unit that is a mercury budget unit under section 1 of this rule on the later of November 15, 1990, or the date the unit commences commercial operation as defined in this clause and that is subsequently replaced by a unit at the same source (for example, repowered), such date shall remain the replaced unit's date of commencement of commercial operation, and the replacement unit shall be treated as a separate unit with a separate date for commencement of commercial operation as defined in this clause or clause (B), as appropriate.

(B) Notwithstanding clause (A), and except as provided in section 3 of this rule, for a unit that is not a mercury budget unit under section 1 of this rule on the later of November 15, 1990, or the date the unit commences commercial operation as defined in clause (A), the unit's date for commencement of commercial operation shall be the date on which the unit becomes a mercury budget unit under section 1 of this rule subject to the following:

(i) For a unit with a date for commencement of commercial operation as defined in this clause and that subsequently undergoes a physical change (other than replacement of the unit by a unit at the same source), such date shall remain the unit's date of commencement of commercial operation of the unit, which shall continue to be treated as the same unit.

(ii) For a unit with a date for commencement of commercial operation as defined in this clause and that is subsequently replaced by a unit at the same source (for example, repowered), such date shall remain the replaced unit's date of commencement of commercial operation, and the replacement unit shall be treated as a separate unit with a separate date for commencement of commercial operation as defined in this clause or clause (A), as appropriate.

(23) "Commence operation" means the following:

(A) To have begun any mechanical, chemical, or electronic process, including, with regard to a unit, start-up of a unit's combustion chamber.

(B) For a unit that undergoes a physical change (other than replacement of the unit by a unit at the same source) after the date the unit commences operation as defined in clause (A), such date shall remain the unit's date of commencement of operation of the unit, which shall continue to be treated as the same unit.

(C) For a unit that is replaced by a unit at the same source (for example, repowered) after the date the unit commences operation as defined in clause (A), such date shall remain the replaced unit's date of commencement of operation, and the replacement unit shall be treated as a separate unit with a separate date for commencement of operation as defined in this clause or clause (A) or (B), as appropriate.

(24) "Common stack" means a single flue through which emissions from two (2) or more units are exhausted.

(25) "Compliance account" means a mercury allowance tracking system account, established by the U.S. EPA for a mercury budget source under section 9 of this rule, in which any mercury allowance allocations for the mercury budget units at the source are initially recorded and in which are held any mercury allowances available for use for a control period in order to meet the source's mercury budget emissions limitation in accordance with section 9(i) and 9(j) of this rule.

(26) "Continuous emission monitoring system" or "CEMS" means the equipment required under section 11 of this rule to sample, analyze, measure, and provide, by means of readings recorded at least once every fifteen (15) minutes, using an automated data acquisition and handling system (DAHS), a permanent record of mercury emissions, stack gas volumetric flow rate, stack gas moisture content, and oxygen or carbon dioxide concentration, as applicable, in a manner consistent with 40 CFR 75*. The following systems are the principal types of continuous emission monitoring systems required under section 11 of this rule:

(A) A flow monitoring system:

(i) consisting of a stack flow rate monitor and an automated DAHS; and

(ii) providing a permanent, continuous record of stack gas volumetric flow rate, in standard cubic feet per hour (scfh).

(B) A mercury concentration monitoring system:

(i) consisting of a mercury pollutant concentration monitor and an automated DAHS; and

(ii) providing a permanent, continuous record of mercury emissions in micrograms per dry standard cubic meter ($\mu\text{g}/\text{dscm}$).

(C) A moisture monitoring system:

(i) as defined in 40 CFR 75.11(b)(2)*; and

(ii) providing a permanent, continuous record of the stack gas moisture content, in percent H_2O .

(D) A carbon dioxide monitoring system:

(i) consisting of a CO_2 concentration monitor, or an oxygen monitor plus suitable mathematical equations from which the CO_2 concentration is derived, and an automated DAHS; and

(ii) providing a permanent, continuous record of CO_2 emissions, in percent CO_2 .

(E) An oxygen monitoring system:

(i) consisting of an O_2 concentration monitor and an automated DAHS; and

(ii) providing a permanent, continuous record of O_2 , in percent O_2 .

(27) "Control period" means the period:

(A) beginning January 1 of a calendar year, except as provided in section 4(c)(2) of this rule; and

(B) ending on December 31 of the same year;

inclusive.

(28) "Emissions" means air pollutants exhausted from a unit or source into the atmosphere as:

(A) measured, recorded, and reported to the U.S. EPA by the mercury designated representative; and

(B) determined by the U.S. EPA in accordance with section 11 of this rule.

(29) "Excess emissions" means any ounce of mercury emitted by the mercury budget units at a mercury budget source during a control period that exceeds the mercury budget emissions limitation for the source.

(30) "General account" means a mercury allowance tracking system account, established under section 9(a) through 9(c) of this rule, that is not a compliance account.

(31) "Generator" means a device that produces electricity.

(32) "Gross electrical output" means, with regard to a cogeneration unit, electricity made available for use, including any such electricity used in the power production process. This process may include, but is not limited to, the following:

(A) Any on-site processing or treatment of fuel combusted at the unit.

(B) Any on-site emission controls.

(33) "Heat input" means, with regard to a specified period of time, the product, in million British thermal units per unit of time (MMBtu/time) of the gross calorific value of the fuel, in British thermal units per pound (Btu/lb), divided by one million (1,000,000) British thermal units per million British thermal units (Btu/MMBtu) and multiplied by the fuel feed rate into a combustion device, in pounds of fuel per unit of time (lb of fuel/time):

(A) as measured, recorded, and reported to the U.S. EPA by the mercury designated representative;

(B) as determined by the U.S. EPA in accordance with section 11 of this rule; and

(C) excluding the heat derived from preheated combustion air, recirculated flue gases, or exhaust from other sources.

(34) "Heat input rate" means the amount of heat input, in million British thermal units (MMBtu), divided by unit operating time, in hours, or, with regard to a specific fuel, the amount of heat input attributed to the fuel, in million British thermal units (MMBtu), divided by the unit operating time, in hours, during which the unit combusts the fuel.

(35) "Life-of-the-unit, firm power contractual arrangement" means a unit participation power sales agreement under which a utility or industrial customer reserves, or is entitled to receive, a specified amount or percentage of nameplate capacity and associated energy generated by any specified unit and pays its proportional amount of such unit's total costs, pursuant to a contract, for:

(A) the life of the unit;

(B) a cumulative term of not less than thirty (30) years, including contracts that permit an election for early termination; or

(C) a period not less than twenty-five (25) years or seventy percent (70%) of the economic useful life of the unit determined as of the time the unit is built, with option rights to purchase or release some portion of the nameplate capacity and associated energy generated by the unit at the end of the period.

(36) "Maximum design heat input" means the maximum amount of fuel per hour, in British thermal units per hour (Btu/hr), that a unit is capable of combusting on a steady state basis as of the initial installation of the unit as specified by the manufacturer of the unit.

(37) "Mercury allowance" means a limited authorization issued by a permitting authority or the U.S. EPA under provisions of a state plan that is approved under 40 CFR 60.24(h)(6)*, or under the federal mercury budget trading program under 40 CFR 60.27, to emit one (1) ounce of mercury during a control period of the specified calendar year for which the authorization is allocated or of any calendar year thereafter under the mercury budget trading program. An authorization to emit mercury that is not issued under the provisions of a state plan that are approved under 40 CFR 60.24(h)(6)* or under the federal mercury budget trading program shall not be a mercury allowance.

(38) "Mercury allowance deduction" or "deduct mercury allowances" means the permanent withdrawal of mercury allowances by the U.S. EPA from a compliance account, for example, in order to account for a specified number of ounces of total mercury emissions from all mercury budget units at a mercury budget source for a control period, determined in accordance with section 11 of this rule, or to account for excess emissions.

(39) "Mercury allowances held" or "hold mercury allowances" means the mercury allowances recorded by the U.S. EPA, or submitted to the U.S. EPA for recordation, in accordance with sections 9 and 10 of this rule, in a mercury allowance tracking system account.

(40) "Mercury allowance tracking system" means the system by which the U.S. EPA records allocations, deductions, and transfers of mercury allowances under the mercury budget trading program. Such allowances shall be:

(A) allocated;

(B) held;

(C) deducted; or

(D) transferred;

only as whole allowances.

(41) "Mercury allowance tracking system account" means an account in the mercury allowance tracking system established by the U.S. EPA for purposes of recording the:

(A) allocation;

(B) holding;

(C) transferring; or

(D) deducting;

of mercury allowances.

(42) "Mercury authorized account representative" means, with regard to a general account, a responsible natural person who is authorized, in accordance with sections 6 and 9 of this rule, to transfer and otherwise dispose of mercury allowances held in the general account and, with regard to a compliance account, the mercury designated representative of the source.

(43) "Mercury budget emissions limitation" means, for a mercury budget source, the equivalent, in ounces of mercury emissions in a control period, of the mercury allowances available for deduction for the source under section 9(i) and 9(j)(1) of this rule for the control period.

(44) "Mercury budget permit" means the legally binding and federally enforceable written document, or portion of such document, issued by the department under section 7 of this rule, including any permit revisions, specifying the mercury budget trading program requirements applicable to a mercury budget source, to each mercury budget unit at the source, and to the owners and operators and the mercury designated representative of the source and each such unit.

(45) "Mercury budget source" means a source that includes one (1) or more mercury budget units.

(46) "Mercury budget trading program" means a multistate mercury air pollution control and emission reduction program approved and administered by the U.S. EPA in accordance with this rule, 40 CFR 60, Subpart HHHH*, and 40 CFR 60.24(h)(6)*, or established by the U.S. EPA in accordance with the federal mercury budget trading program under 40 CFR 60.27, as a means of reducing national mercury emissions.

(47) "Mercury budget unit" means a unit that is subject to the mercury budget trading program under section 1 of this rule.

(48) "Mercury designated representative" means, for a mercury budget source and each mercury

budget unit at the source, the natural person who is authorized by the owners and operators of the source and all such units at the source, in accordance with section 6 of this rule, to represent and legally bind each owner and operator in matters pertaining to the mercury budget trading program. If the mercury budget source is also:

- (A) a CAIR NO_x source, then this natural person shall be the same person as the CAIR designated representative under the CAIR NO_x annual trading program;
- (B) a CAIR SO₂ source, then this natural person shall be the same person as the CAIR designated representative under the CAIR SO₂ trading program;
- (C) a CAIR NO_x ozone season source, then this natural person shall be the same person as the CAIR designated representative under the CAIR NO_x ozone season trading program; and
- (D) subject to the acid rain program, then this natural person shall be the same person as the designated representative under the acid rain program.

(49) "Monitoring system" means any monitoring system that meets the requirements of section 11 of this rule, including any of the following:

- (A) A CEMS.
- (B) An alternative monitoring system.
- (C) An excepted monitoring system under 40 CFR 75*.

(50) "Municipal waste" means municipal waste as defined in the Clean Air Act, Section 129(g)(5).

(51) "Nameplate capacity" means, starting from the initial installation of a generator, the maximum electrical generating output, in megawatt electrical (MWe), that the generator is capable of producing on a steady state basis and during continuous operation (when not restricted by seasonal or other deratings) as of such installation as specified by the manufacturer of the generator or, starting from the completion of any subsequent physical change in the generator resulting in an increase in the maximum electrical generating output, in megawatt electrical (MWe), that the generator is capable of producing on a steady state basis and during continuous operation (when not restricted by seasonal or other deratings) such increased maximum amount, as of such completion, as specified by the person conducting the physical change.

(52) "Operator" means any person who operates, controls, or supervises a mercury budget unit or a mercury budget source and shall include, but not be limited to, any:

- (A) holding company;
- (B) utility system; or
- (C) plant manager;

of such a unit or source.

(53) "Ounce" means twenty-eight million four hundred thousand (2.84×10^7) micrograms. For the purpose of determining compliance with the mercury budget emissions limitation, total ounces of mercury emissions for a control period shall be calculated as the sum of all recorded hourly emissions, or the mass equivalent of the recorded hourly emission rates, in accordance with section 11 of this rule, but with any remaining fraction of an ounce:

- (A) equal to or greater than fifty-hundredths (0.50) ounces deemed to equal one (1) ounce; and
- (B) less than fifty-hundredths (0.50) ounces deemed to equal zero (0) ounces.

(54) "Owner" means any of the following persons:

- (A) With regard to a mercury budget source or a mercury budget unit at a source, respectively, any:
 - (i) holder of any portion of the legal or equitable title in a mercury budget unit at the source or the mercury budget unit;
 - (ii) holder of a leasehold interest in a mercury budget unit at the source or the mercury budget unit; or
 - (iii) purchaser of power from a mercury budget unit at the source or the mercury budget unit under a life-of-the-unit, firm power contractual arrangement; provided that, unless expressly provided for in a leasehold agreement, the term shall not include a passive lessor, or a person who has an equitable interest through such lessor, whose rental payments are not based, either directly or indirectly, on the revenues or income from such mercury budget unit.

(B) With regard to any general account, any person who:

- (i) has an ownership interest with respect to the mercury allowances held in the general account; and
- (ii) is subject to the binding agreement for the mercury authorized account representative to represent the person's ownership interest with respect to mercury allowances.

(55) "Permitting authority" means the:

- (A) state air pollution control agency;
- (B) local agency;
- (C) other state agency; or
- (D) other agency authorized by the U.S. EPA;

to issue or revise permits to meet the requirements of the mercury budget trading program or, if no such agency has been so authorized, the U.S. EPA.

(56) "Potential electrical output capacity" means thirty-three percent (33%) of a unit's maximum design heat input, divided by three thousand four hundred thirteen (3,413) Btu/kilowatt hour, divided by one thousand (1,000) kilowatt hour/megawatt hour, and multiplied by eight thousand seven hundred sixty (8,760) hours/year.

(57) "Receive" or "receipt of" means, when referring to the department or the U.S. EPA, to come into possession of a document, information, or correspondence, whether sent in hard copy or by authorized electronic transmission, as indicated in an official log, or by a notation made on the document, information, or correspondence, by the department or the U.S. EPA in the regular course of business.

(58) "Recordation", "record", or "recorded" means, with regard to mercury allowances, the movement of mercury allowances by the U.S. EPA into or between mercury allowance tracking system accounts, for purposes of allocation, transfer, or deduction.

(59) "Reference method" means any direct test method of sampling and analyzing for an air pollutant as specified in 40 CFR 75.22*.

(60) "Replacement", "replace", or "replaced" means, with regard to a unit, the:

- (A) demolishing of a unit, or the permanent shutdown and permanent disabling of a unit; and
- (B) construction of another unit (the replacement unit) to be used instead of the demolished or shutdown unit (the replaced unit).

(61) "Repowered" means, with regard to a unit, replacement of a coal-fired boiler with one (1) of the following coal-fired technologies at the same source as the coal-fired boiler:

- (A) Atmospheric or pressurized fluidized bed combustion.
- (B) Integrated gasification combined cycle.
- (C) Magnetohydrodynamics.
- (D) Direct and indirect coal-fired turbines.
- (E) Integrated gasification fuel cells.
- (F) As determined by the U.S. EPA in consultation with the Secretary of the United States Department of Energy, a derivative of one (1) or more of the technologies under clauses (A) through (E) and any other coal-fired technology capable of controlling multiple combustion emissions simultaneously with:
 - (i) improved boiler or generation efficiency; and
 - (ii) significantly greater waste reduction;relative to the performance of technology in widespread commercial use as of January 1, 2005.

(62) "Sequential use of energy" means:

- (A) for a topping-cycle cogeneration unit, the use of reject heat from electricity production in a useful thermal energy application or process; or
- (B) for a bottoming-cycle cogeneration unit, the use of reject heat from useful thermal energy application or process in electricity production.

(63) "Serial number" means, for a mercury allowance, the unique identification number assigned to each mercury allowance by the U.S. EPA.

(64) "Solid waste incineration unit" means a stationary, coal-fired boiler or stationary, coal-fired combustion turbine that is a solid waste incineration unit as defined in the Clean Air Act, Section 129(g)(1).

(65) "Source" means all buildings, structures, or installations located in one (1) or more contiguous or adjacent properties under common control of the same person or persons. For purposes of Section 502(c) of the Clean Air Act, a source, including a source with multiple units, shall be considered a single facility.

(66) "State" means the following:

- (A) For purposes of referring to a governing entity, one (1) of the states in the United States, the District of Columbia, or, if approved for treatment as a state under 40 CFR 49*, the Navajo Nation or Ute Indian Tribe that adopts the mercury budget trading program pursuant to 40 CFR 60.24(h)(6)*.
- (B) For purposes of referring to geographic areas:
 - (i) one (1) of the states in the United States;
 - (ii) the District of Columbia;
 - (iii) the Navajo Nation Indian country; or
 - (iv) the Ute Indian Tribe Indian country.

(67) "Submit" or "serve" means to send or transmit a document, information, or correspondence to the person specified in accordance with the applicable regulation:

- (A) in person;
- (B) by United States Postal Service; or

(C) by other means of dispatch or transmission and delivery.

Compliance with any submission or service deadline shall be determined by the date of dispatch, transmission, or mailing and not the date of receipt by the department or the U.S. EPA.

(68) "Title V operating permit" or "Part 70 operating permit" means a permit issued under [326 IAC 2-7](#).

(69) "Title V operating permit regulations" or "Part 70 operating permit regulations" means the rules under [326 IAC 2-7](#).

(70) "Topping-cycle cogeneration unit" means a cogeneration unit in which:

(A) the energy input to the unit is first used to produce useful power, including electricity; and

(B) at least some of the reject heat from the electricity production is then used to provide useful thermal energy.

(71) "Total energy input" means, with regard to a cogeneration unit, total energy of all forms supplied to the cogeneration unit, excluding energy produced by the cogeneration unit itself.

(72) "Total energy output" means, with regard to a cogeneration unit, the sum of useful power and useful thermal energy produced by the cogeneration unit.

(73) "Unit" means a stationary coal-fired boiler or a stationary coal-fired combustion turbine.

(74) "Unit operating day" means a calendar day in which a unit combusts any fuel.

(75) "Unit operating hour" or "hour of unit operation" means an hour in which a unit combusts any fuel.

(76) "Useful power" means, with regard to a cogeneration unit, electricity or mechanical energy made available for use, excluding any such energy used in the power production process, which process includes, but is not limited to, any on-site:

(A) processing or treatment of fuel combusted at the unit; and

(B) emission controls.

(77) "Useful thermal energy" means, with regard to a cogeneration unit, thermal energy that is:

(A) made available to an industrial or commercial process, not a power production process, excluding any heat contained in condensate return or makeup water;

(B) used in a heating application (for example, space heating or domestic hot water heating); or

(C) used in a space cooling application (that is, thermal energy used by an absorption chiller).

(78) "Utility power distribution system" means the portion of an electricity grid owned or operated by a utility and dedicated to delivering electricity to customers.

*These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204.

**This document is incorporated by reference. Copies are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204.

(Air Pollution Control Board; [326 IAC 24-4-2](#); filed Jan 4, 2008, 1:38 p.m.: [20080130-IR-326050116FRA](#))

[326 IAC 24-4-3](#) Retired unit exemption

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 3. (a) This section applies to any mercury budget unit that is permanently retired.

(b) Any mercury budget unit that is permanently retired shall be exempt from the mercury budget trading program, except for the provisions of this section and sections 1, 2, 4(c)(4) through 4(c)(7), 5, 6, and 8 through 10 of this rule.

(c) The exemption under this section shall become effective the day on which the mercury budget unit is permanently retired. Within thirty (30) days of the unit's permanent retirement, the mercury designated representative shall submit a statement to the department and shall submit a copy of the statement to the U.S. EPA. The statement shall state, in a format prescribed by the department, that the unit:

(1) was permanently retired on a specific date; and

(2) shall comply with the requirements of subsection (e).

(d) After receipt of the statement under subsection (c), the department shall amend any permit under section 7 of this rule covering the source at which the unit is located to add the provisions and requirements of the exemption under subsections (b) and (e).

(e) A unit exempt under this section shall comply with the following provisions:

(1) The unit exempt shall not emit any mercury, starting on the date that the exemption takes effect.

(2) The department shall allocate mercury allowances under section 8 of this rule to the unit.

(3) For a period of five (5) years from the date the records are created, the owners and operators of the unit shall retain, at the source that includes the unit, or a central location within Indiana for those owners and operators with unattended sources, records demonstrating that the unit is permanently retired. The five (5) year period for keeping records may be extended for cause, at any time before the end of the period, in writing by the department or the U.S. EPA. The owners and operators bear the burden of proof that the unit is permanently retired.

(4) The owners and operators and, to the extent applicable, the mercury designated representative of the unit shall comply with the requirements of the mercury budget trading program concerning all periods for which the exemption is not in effect, even if such requirements arise, or must be complied with, after the exemption takes effect.

(5) A unit located at a source that is required, or but for this exemption would be required, to have an operating permit under [326 IAC 2-7](#) shall not resume operation unless the mercury designated representative of the source submits a complete mercury budget permit application under section 7(c) of this rule for the unit not less than two hundred seventy (270) days before the later of January 1, 2010, or the date on which the unit resumes operation.

(6) A unit exempt under this section shall lose its exemption on the earliest of the following dates:

(A) The date on which the mercury designated representative:

(i) submits a mercury budget permit application for the unit under subdivision (5); or

(ii) is required under subdivision (5) to submit a mercury budget permit application for the unit.

(B) The date on which the unit resumes operation, if the mercury designated representative is not required to submit a mercury budget permit application for the unit.

(7) For the purpose of applying monitoring, record keeping, and reporting requirements under section 11 of this rule, a unit that loses its exemption under this section shall be treated as a unit that commences commercial operation on the first date on which the unit resumes operation.

(Air Pollution Control Board; [326 IAC 24-4-3](#); filed Jan 4, 2008, 1:38 p.m.: [20080130-IR-326050116FRA](#))

[326 IAC 24-4-4](#) Standard requirements

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 4. (a) The owners and operators and mercury designated representative of each mercury budget source and mercury budget unit shall comply with the following permit requirements:

(1) The mercury designated representative of each mercury budget source required to have a federally enforceable permit and each mercury budget unit required to have a federally enforceable permit at the source shall submit the following to the department:

(A) A complete mercury budget permit application under section 7(c) of this rule in accordance with the deadlines specified in section 7(b) of this rule.

(B) Any supplemental information that the department determines is necessary to:

(i) review a mercury budget permit application; and

(ii) issue or deny a mercury budget permit;
in a timely manner.

(2) The owners and operators of each mercury budget source required to have a federally enforceable permit and each mercury budget unit required to have a federally enforceable permit at the source shall:

(A) have a mercury budget permit issued by the department under section 7 of this rule for the source; and

(B) operate the source and the unit in compliance with such mercury budget permit.

(3) The owners and operators of a mercury budget source that is not otherwise required to have a

federally enforceable permit and each mercury budget unit that is not required to have a federally enforceable permit are not required to:

- (A) submit a mercury budget permit application; and
- (B) have a mercury budget permit;

under section 7 of this rule for such mercury budget source and such mercury budget unit.

(b) The owners and operators and mercury designated representative of each mercury budget source and mercury budget unit shall comply with the following monitoring, record keeping, and reporting requirements:

- (1) The monitoring, record keeping, and reporting requirements of section 11 of this rule.
- (2) The emissions measurements recorded and reported in accordance with section 11 of this rule shall be used to determine compliance by each mercury budget source with the mercury budget emissions limitation under subsection (c).

(c) The owners and operators and mercury designated representative of each mercury budget source shall comply with the following mercury emission requirements:

- (1) As of the allowance transfer deadline for a control period, the owners and operators of each mercury budget source and each mercury budget unit at the source shall hold, in the source's compliance account, mercury allowances available for compliance deductions for the control period under section 9(i) of this rule in an amount not less than the ounces of total mercury emissions for the control period from all mercury budget units at the source, as determined in accordance with section 11 of this rule.
- (2) A mercury budget unit shall be subject to the requirements under subdivision (1) for the control period starting on the later of January 1, 2010, or the deadline for meeting the unit's monitor certification requirements under section 11(c)(1) or 11(c)(2) of this rule and for each control period thereafter.
- (3) A mercury allowance shall not be deducted, for compliance with the requirements under subdivision (1), for a control period in a calendar year before the year for which the mercury allowance was allocated.
- (4) Mercury allowances shall be:
 - (A) held in;
 - (B) deducted from; or
 - (C) transferred into or among;mercury allowance tracking system accounts in accordance with sections 9 and 10 of this rule.
- (5) A mercury allowance is a limited authorization to emit one (1) ounce of mercury in accordance with the mercury budget trading program. No provision of:
 - (A) the mercury budget trading program;
 - (B) the mercury budget permit application;
 - (C) the mercury budget permit;
 - (D) an exemption under section 3 of this rule; or
 - (E) law;

shall be construed to limit the authority of the department or the United States to terminate or limit such authorization.

(6) A mercury allowance does not constitute a property right.

(7) Upon recordation by the U.S. EPA under sections 8 through 10 of this rule, every allocation, transfer, or deduction of a mercury allowance to or from a mercury budget source's compliance account is incorporated automatically in any mercury budget permit of the source.

(d) If a mercury budget source emits mercury during any control period in excess of the mercury budget emissions limitation, then:

- (1) the owners and operators of the mercury budget source and each mercury budget unit shall:
 - (A) surrender the mercury allowances required for deduction under section 9(j)(4) of this rule; and
 - (B) pay any fine, penalty, or assessment or comply with any other remedy imposed, for the same violations, under the Clean Air Act or applicable state law; and
- (2) each:

- (A) ounce of such excess emissions; and
- (B) day of such control period;

shall constitute a separate violation of this rule, the Clean Air Act, and other applicable state law.

(e) Owners and operators of each mercury budget source and each mercury budget unit at the source shall comply with the following record keeping and reporting requirements:

(1) Unless otherwise provided, the owners and operators of the mercury budget source and each mercury budget unit at the source shall keep on site at the source or at a central location within Indiana for those owners and operators with unattended sources each of the following documents for a period of five (5) years from the date the document is created, which period may be extended for cause, at any time before the end of five (5) years, in writing by the department or the U.S. EPA:

(A) The certificate of representation under section 6(h) of this rule for the mercury designated representative for the source and each mercury budget unit at the source and all documents that demonstrate the truth of the statements in the certificate of representation; provided that the certificate and documents shall be retained on site at the source beyond such five (5) year period until such documents are superseded because of the submission of a new certificate of representation under section 6(h) of this rule changing the mercury designated representative.

(B) All emissions monitoring information, in accordance with section 11 of this rule, provided that to the extent that section 11 of this rule provides for a three (3) year period for record keeping, the three (3) year period shall apply.

(C) Copies of the following:

(i) All reports, compliance certifications, and other submissions and all records made or required under the mercury budget trading program.

(ii) All documents used to complete a mercury budget permit application and any other submission under the mercury budget trading program or to demonstrate compliance with the requirements of the mercury budget trading program.

(2) The mercury designated representative of a mercury budget source and each mercury budget unit at the source shall submit the reports required under the mercury budget trading program, including those under section 11 of this rule.

(f) The owners and operators of each mercury budget source and each mercury budget unit shall be liable as follows:

(1) Each mercury budget source and each mercury budget unit shall meet the requirements of the mercury budget trading program.

(2) Any provision of the mercury budget trading program that applies to a mercury budget source or the mercury designated representative of a mercury budget source shall also apply to the owners and operators of such source and of the mercury budget units at the source.

(3) Any provision of the mercury budget trading program that applies to a mercury budget unit or the mercury designated representative of a mercury budget unit shall also apply to the owners and operators of such unit.

(g) No provision of:

(1) the mercury budget trading program;

(2) a mercury budget permit application;

(3) a mercury budget permit; or

(4) an exemption under section 3 of this rule;

shall be construed as exempting or excluding the owners and operators, and the mercury designated representative, of a mercury budget source or mercury budget unit from compliance with any other provision of the applicable, approved state implementation plan, a federally enforceable permit, or the Clean Air Act.

(Air Pollution Control Board; [326 IAC 24-4-4](#); filed Jan 4, 2008, 1:38 p.m.: [20080130-IR-326050116FRA](#))

[326 IAC 24-4-5](#) Computation of time and appeal procedures

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 5. (a) Unless otherwise stated, any time period scheduled, under the mercury budget trading program, to begin on the occurrence of an act or event shall begin on the day the act or event occurs.

(b) Unless otherwise stated, any time period scheduled, under the mercury budget trading program, to

begin before the occurrence of an act or event shall be computed so that the period ends the day before the act or event occurs.

(c) Unless otherwise stated, if the final day of any time period, under the mercury budget trading program, falls on a weekend or a state or federal holiday, the time period shall be extended to the next business day.

(d) The appeal procedures for decisions of the U.S. EPA under the mercury budget trading program will follow those procedures set forth in 40 CFR 78*.

*These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204.

(Air Pollution Control Board; [326 IAC 24-4-5](#); filed Jan 4, 2008, 1:38 p.m.: [20080130-IR-326050116FRA](#))

[326 IAC 24-4-6](#) Mercury designated representative for mercury budget sources

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 6. (a) Except as provided under subsection (f), each mercury budget source, including all mercury budget units at the source, shall have one (1) and only one (1) mercury designated representative, with regard to all matters under the mercury budget trading program concerning the source or any mercury budget unit at the source.

(b) The mercury designated representative of the mercury budget source shall:

- (1) be selected by an agreement binding on the owners and operators of the source and all mercury budget units at the source; and
- (2) act in accordance with the certification statement in subsection (h)(4).

(c) Upon receipt by the U.S. EPA of a complete certificate of representation under subsection (h), the mercury designated representative of the source shall represent and, by his or her representations, actions, inactions, or submissions, legally bind each owner and operator of the mercury budget source represented and each mercury budget unit at the source in all matters pertaining to the mercury budget trading program, notwithstanding any agreement between the mercury designated representative and such owners and operators. The owners and operators shall be bound by any decision or order issued to the mercury designated representative by the department, the U.S. EPA, or a court regarding the source or unit.

(d) No:

- (1) mercury budget permit shall be issued;
- (2) emissions data reports shall be accepted; and
- (3) mercury allowance tracking system account shall be established;

for a mercury budget unit at a source, until the U.S. EPA has received a complete certificate of representation under subsection (h) for a mercury designated representative of the source and the mercury budget units at the source.

(e) The following shall apply to submissions made under the mercury budget trading program:

- (1) Each submission under the mercury budget trading program shall be submitted, signed, and certified by the mercury designated representative for each mercury budget source on behalf of which the submission is made. Each such submission shall include the following certification statement by the mercury designated representative: "I am authorized to make this submission on behalf of the owners and operators of the source or units for which the submission is made. I certify under penalty of law that I have personally examined, and am familiar with, the statements and information

submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment."

(2) The department and the U.S. EPA will accept or act on a submission made on behalf of owners or operators of a mercury budget source or a mercury budget unit only if the submission has been made, signed, and certified in accordance with subdivision (1).

(f) The following shall apply where the owners or operators of a mercury budget source choose to designate an alternate mercury designated representative:

(1) A certificate of representation under subsection (h) may designate one (1) and only one (1) alternate mercury designated representative, who may act on behalf of the mercury designated representative. The agreement by which the alternate mercury designated representative is selected shall include a procedure for authorizing the alternate mercury designated representative to act in lieu of the mercury designated representative.

(2) Upon receipt by the U.S. EPA of a complete certificate of representation under subsection (h), any representation, action, inaction, or submission by the alternate mercury designated representative shall be deemed to be a representation, action, inaction, or submission by the mercury designated representative.

(3) Except in subsections (a) and (d), this subsection, and subsections (g), (h), and (j), and sections 2 and 9(a) through 9(c) of this rule, whenever the term "mercury designated representative" is used in this rule, the term shall be construed to include the mercury designated representative or any alternate mercury designated representative.

(g) The following shall apply when changing the mercury designated representative or the alternate mercury designated representative or when there are changes in the owners or operators:

(1) The mercury designated representative may be changed at any time upon receipt by the U.S. EPA of a superseding complete certificate of representation under subsection (h). Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous mercury designated representative before the time and date when the U.S. EPA receives the superseding certificate of representation shall be binding on the new mercury designated representative and the owners and operators of the mercury budget source and the mercury budget units at the source.

(2) The alternate mercury designated representative may be changed at any time upon receipt by the U.S. EPA of a superseding complete certificate of representation under subsection (h).

Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous alternate mercury designated representative before the time and date when the U.S. EPA receives the superseding certificate of representation shall be binding on the new alternate mercury designated representative and the owners and operators of the mercury budget source and the mercury budget units at the source.

(3) Changes in owners and operators shall be made as follows:

(A) In the event an owner or operator of a mercury budget source or a mercury budget unit is not included in the list of owners and operators in the certificate of representation under subsection (h), such owner or operator shall be deemed to be subject to and bound by the certificate of representation, the representations, actions, inactions, and submissions of the mercury designated representative and any alternate mercury designated representative of the source or unit, and the decisions and orders of the department, the U.S. EPA, or a court, as if the owner or operator were included in such list.

(B) Within thirty (30) days following any change in the owners and operators of a mercury budget source or a mercury budget unit, including the addition of a new owner or operator, the mercury designated representative or any alternate mercury designated representative shall submit a revision to the certificate of representation under subsection (h), amending the list of owners and operators to include the change.

(h) A complete certificate of representation for a mercury designated representative or an alternate mercury designated representative shall include the following elements in a format prescribed by the U.S. EPA:

(1) Identification of the mercury budget source, and each mercury budget unit at the source, for which the certificate of representation is submitted, including identification and nameplate capacity of each generator served by each such unit.

(2) The:

- (A) name;**
- (B) address;**
- (C) e-mail address, if any;**
- (D) telephone number; and**
- (E) facsimile transmission number, if any;**

of the mercury designated representative and any alternate mercury designated representative.

(3) A list of the owners and operators of the mercury budget source and of each mercury budget unit at the source.

(4) The following certification statement by the mercury designated representative and any alternate mercury designated representative: "I certify that I was selected as the mercury designated representative or alternate mercury designated representative, as applicable, by an agreement binding on the owners and operators of the source and each mercury budget unit at the source. I certify that I have all the necessary authority to carry out my duties and responsibilities under the mercury budget trading program on behalf of the owners and operators of the source and of each mercury budget unit at the source and that each such owner and operator shall be fully bound by my representations, actions, inactions, or submissions. I certify that the owners and operators of the source and of each mercury budget unit at the source shall be bound by any order issued to me by the U.S. EPA, the department, or a court regarding the source or unit. Where there are multiple holders of a legal or equitable title to, or a leasehold interest in, a mercury budget unit, or where a utility or industrial customer purchases power from a mercury budget unit under a life-of-the-unit, firm power contractual arrangement, I certify that: I have given a written notice of my selection as the 'mercury designated representative' or 'alternate mercury designated representative,' as applicable, and of the agreement by which I was selected to each owner and operator of the source and of each mercury budget unit at the source; and mercury allowances and proceeds of transactions involving mercury allowances will be deemed to be held or distributed in proportion to each holder's legal, equitable, leasehold, or contractual reservation or entitlement, except that, if such multiple holders have expressly provided for a different distribution of mercury allowances by contract, mercury allowances and proceeds of transactions involving mercury allowances will be deemed to be held or distributed in accordance with the contract."

(5) The signature of the mercury designated representative and any alternate mercury designated representative and the dates signed.

Unless otherwise required by the department or the U.S. EPA, documents of agreement referred to in the certificate of representation shall not be submitted to the department or the U.S. EPA. Neither the department nor the U.S. EPA shall be under any obligation to review or evaluate the sufficiency of such documents, if submitted.

(i) The following shall apply to objections concerning the mercury designated representative:

(1) Once a complete certificate of representation under subsection (h) has been submitted and received, the department and the U.S. EPA will rely on the certificate of representation unless and until a superseding complete certificate of representation under subsection (h) is received by the U.S. EPA.

(2) Except as provided in subsection (g)(1) or (g)(2), no objection or other communication submitted to the department or the U.S. EPA concerning the authorization, or any representation, action, inaction, or submission, of the mercury designated representative shall affect any representation, action, inaction, or submission of the mercury designated representative or the finality of any decision or order by the department or the U.S. EPA under the mercury budget trading program.

(3) Neither the department nor the U.S. EPA will adjudicate any private legal dispute concerning the authorization or any representation, action, inaction, or submission of any mercury designated representative, including private legal disputes concerning the proceeds of mercury allowance transfers.

(j) The following shall apply to delegation by the mercury designated representative and alternate mercury designated representative:

(1) A mercury designated representative may delegate, to one (1) or more natural persons, his or her authority to make an electronic submission to the U.S. EPA provided for or required under this rule.

(2) An alternate mercury designated representative may delegate, to one (1) or more natural persons, his or her authority to make an electronic submission to the U.S. EPA provided for or required under this rule.

(3) In order to delegate authority to make an electronic submission to the U.S. EPA in accordance with subdivision (1) or (2), the mercury designated representative or alternate mercury designated

representative, as appropriate, must submit to the U.S. EPA a notice of delegation, in a format prescribed by the U.S. EPA, that includes the following elements:

- (A) The name, address, e-mail address, telephone number, and facsimile transmission number, if any, of the following:
 - (i) The mercury designated representative or alternate mercury designated representative.
 - (ii) The natural person, referred to as an "agent".
- (B) For each such natural person, a list of the type or types of electronic submissions under subdivision (1) or (2) for which authority is delegated to him or her.
- (C) The following certification statements by such mercury designated representative or alternate mercury designated representative:
 - (i) "I agree that any electronic submission to the U.S. EPA that is by an agent identified in this notice of delegation and of a type listed for such agent in this notice of delegation and that is made when I am a mercury designated representative or alternate mercury designated representative, as appropriate, and before this notice of delegation is superseded by another notice of delegation under [326 IAC 24-4-6\(j\)\(4\)](#) shall be deemed to be an electronic submission by me."
 - (ii) "Until this notice of delegation is superseded by another notice of delegation under [326 IAC 24-4-6\(j\)\(4\)](#), I agree to maintain an e-mail account and to notify the U.S. EPA immediately of any change in my e-mail address unless all delegation of authority by me under [326 IAC 24-4-6\(j\)](#) is terminated."
- (4) A notice of delegation submitted under subdivision (3) shall be effective, with regard to the mercury designated representative or alternate mercury designated representative identified in such notice, upon receipt of such notice by the U.S. EPA and until receipt by the U.S. EPA of a superseding notice of delegation submitted by such mercury designated representative or alternate mercury designated representative, as appropriate. The superseding notice of delegation may:
 - (A) replace any previously identified agent;
 - (B) add a new agent; or
 - (C) eliminate entirely any delegation of authority.
- (5) Any electronic submission:
 - (A) covered by the certification in subdivision (3)(C)(i); and
 - (B) made in accordance with a notice of delegation effective under subdivision (4);shall be deemed to be an electronic submission by the mercury designated representative or alternate mercury designated representative submitting such notice of delegation.

(Air Pollution Control Board; [326 IAC 24-4-6](#); filed Jan 4, 2008, 1:38 p.m.: [20080130-IR-326050116FRA](#))

[326 IAC 24-4-7](#) Mercury budget permit requirements

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 7. (a) For each mercury budget source required to have a Part 70 operating permit, such permit shall include a mercury budget permit administered by the department as follows:

- (1) The mercury budget portion of the Part 70 permit shall be administered in accordance with [326 IAC 2-7](#), except as provided otherwise by this section and section 3 of this rule.
- (2) Each mercury budget permit shall:
 - (A) contain, with regard to the mercury budget source and the mercury budget units at the source covered by the mercury budget permit, all applicable mercury budget trading program requirements; and
 - (B) be a complete and separable portion of the Part 70 operating permit.

(b) The requirements for the submission of mercury budget permit applications are as follows:

- (1) The mercury designated representative of any mercury budget source required to have a Part 70 operating permit shall submit to the department a complete mercury budget permit application under subsection (c) for the source covering each mercury budget unit at the source at least two hundred seventy (270) days before the later of:
 - (A) January 1, 2010; or
 - (B) the date on which the mercury budget unit commences commercial operation.
- (2) For a mercury budget source required to have a Part 70 operating permit, the mercury designated representative shall submit a complete mercury budget permit application under subsection (c) for the

source covering each mercury budget unit at the source to renew the mercury budget permit in accordance with the [326 IAC 2-7-4\(a\)\(1\)\(D\)](#).

(c) A complete mercury budget permit application shall include the following elements concerning the mercury budget source for which the application is submitted, in a format prescribed by the department:

- (1) Identification of the mercury budget source.
- (2) Identification of each mercury budget unit at the mercury budget source.
- (3) The standard requirements under section 4 of this rule.

(d) Each mercury budget permit shall contain, in a format prescribed by the department, all elements required for a complete mercury budget permit application under subsection (c).

(e) Each mercury budget permit is deemed to incorporate automatically the definitions of terms under section 2 of this rule and, upon recordation by the U.S. EPA under sections 8 through 10 of this rule, every allocation, transfer, or deduction of a mercury allowance to or from the compliance account of the mercury budget source covered by the permit.

(f) The term of the mercury budget permit shall be set by the department, as necessary to facilitate coordination of the renewal of the mercury budget permit with issuance, revision, or renewal of the mercury budget source's Part 70 operating permit.

(g) Except as provided in subsection (e), the department shall revise the mercury budget permit, as necessary, in accordance with the permit modification and revision provisions under [326 IAC 2-7](#).

(Air Pollution Control Board; [326 IAC 24-4-7](#); filed Jan 4, 2008, 1:38 p.m.: [20080130-IR-326050116FRA](#))

[326 IAC 24-4-8](#) Mercury allowance allocations

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 8. (a) The trading budget allocated by the department under subsections (d) through (g) for each control period shall equal the mercury allowances apportioned to the mercury budget units, as determined by the procedures in this section. The total number of mercury allowances available for annual allocation of mercury allowances under this rule is sixty-seven thousand one hundred four (67,104) ounces in 2010 through 2017 and twenty-six thousand four hundred ninety-six (26,496) ounces in 2018 and thereafter, apportioned as follows:

- (1) For existing units, which have a baseline heat input as determined under subsection (c)(1):
 - (A) sixty-three thousand seven hundred forty-nine (63,749) ounces in 2010 through 2014;
 - (B) sixty-five thousand ninety-one (65,091) ounces in 2015 through 2017; and
 - (C) twenty-five thousand seven hundred one (25,701) ounces in 2018 and thereafter.
- (2) For new unit allocation set-aside:
 - (A) two thousand six hundred eighty-four (2,684) ounces in 2010 through 2014;
 - (B) one thousand three hundred forty-two (1,342) ounces in 2015 through 2017;
 - (C) five hundred thirty (530) ounces in 2018 through 2021; and
 - (D) seven hundred ninety-five (795) ounces in 2022 and thereafter.
- (3) For clean coal technology set-aside:
 - (A) six hundred seventy-one (671) ounces in 2010 through 2017; and
 - (B) two hundred sixty-five (265) ounces in 2018 through 2021.

(b) The department shall allocate mercury allowances to mercury budget units according to the following schedule:

- (1) Within thirty (30) days of the effective date of this rule, the department shall submit to the U.S. EPA the mercury allowance allocations, in a format prescribed by the U.S. EPA and in accordance with subsections (c) and (d), for the control periods in 2010, 2011, 2012, 2013, and 2014.
- (2) By October 31, 2009, and October 31 every six (6) years thereafter, the department shall submit to the U.S. EPA the mercury allowance allocations, in a format prescribed by the U.S. EPA and in

accordance with subsections (c) and (d), for the control periods six (6), seven (7), eight (8), nine (9), ten (10), and eleven (11) years after the year of the allowance allocation.

(3) By October 31, 2010, and October 31 of each year thereafter, the department shall submit to the U.S. EPA the mercury allowance allocations, in a format prescribed by the U.S. EPA and in accordance with subsections (c), (e), (f), and (g), for the control period in the year of the applicable deadline for submission under this subdivision.

(4) The department shall:

(A) make available for review to the public the mercury allowance allocations under subdivision (2) on July 31 of each year allocations are made; and

(B) provide a thirty (30) day opportunity for submission of objections to the mercury allowance allocations.

Objections shall be limited to addressing whether the mercury allowance allocations are in accordance with this section. Based on any such objections, the department shall consider any objections and input from affected sources and, if appropriate, adjust each determination to the extent necessary to ensure that it is in accordance with this section.

(c) The baseline heat input, in million British thermal units (MMBtu), used with respect to mercury allocations under subsection (d) for each mercury budget unit shall be as follows:

(1) For units commencing operation before January 1, 2001:

(A) For a mercury allowance allocation under subsection (b)(1), the average of the three (3) highest amounts of the unit's control period heat input for 1998 through 2005.

(B) For a mercury allowance allocation under subsection (b)(2), the average of the three (3) highest amounts of the unit's control period heat input for the eight (8) years preceding the calculation of the mercury allowance allocation.

(2) For units commencing operation on or after January 1, 2001, and operating each calendar year during a period of three (3) or more consecutive calendar years, the average of the three (3) highest amounts of the unit's total converted control period heat input for the years preceding the calculation of the mercury allowance allocation, not to exceed eight (8) years.

(3) A unit's control period heat input for a calendar year under subdivision (1), and a unit's total ounces of mercury emissions during a calendar year under subsection (e)(3), shall be:

(A) determined in accordance with 40 CFR 75*, to the extent the unit was otherwise subject to the requirements of 40 CFR 75* for the year; or

(B) based on the best available data reported to the department for the unit, to the extent the unit was not otherwise subject to the requirements of 40 CFR 75* for the year.

(4) A unit's converted control period heat input for a calendar year specified under subdivision (2) equals one (1) of the following:

(A) The control period gross electrical output in kilowatt hour (kWh) of the generator or generators served by the unit multiplied by eight thousand nine hundred (8,900) British thermal units per kilowatt hour (Btu/kWh) and divided by one million (1,000,000) British thermal units per million British thermal units (Btu/MMBtu), provided that if a generator is served by two (2) or more units, then the gross electrical output of the generator shall be attributed to each unit in proportion to the unit's share of the total control period heat input of such units for the year.

(B) For a unit that has equipment used to produce electricity and useful thermal energy for industrial, commercial, heating, or cooling purposes through the sequential use of energy, the control period gross electrical output in kilowatt hour (kWh) of the unit multiplied by eight thousand nine hundred (8,900) British thermal units per kilowatt hour (Btu/kWh), plus the useful energy, in British thermal units (Btu), produced during the control period divided by eight-tenths (0.8), and with the sum divided by one million (1,000,000) British thermal units per million British thermal units (Btu/MMBtu).

(C) For any clean coal technology unit commencing operation on or after January 1, 2001, but before January 1, 2018, the mercury designated representative of such mercury budget unit may submit a request to the department prior to May 1 of the year during which allocations are made pursuant to subsection (b) to calculate the baseline heat input as one (1) of the following, whichever is greater:

(i) The actual gross electrical output in kilowatt hour (kWh) of the generator or generators served by the unit during any consecutive twelve (12) months, multiplied and divided by the factors in clause (A), as appropriate.

(ii) The gross electrical output in kilowatt hour (kWh) of such generator or generators that would result from the utilization of the unit at eighty-five percent (85%) of the rated capacity for any consecutive twelve (12) months, multiplied and divided by the factors in clause (A), as appropriate.

(d) For each control period in 2010 and thereafter, the department shall allocate to all mercury budget units that have a baseline heat input, as determined under subsection (c), a total amount of mercury allowances equal to the amount in subsection (a)(1), except as provided in subsection (g). The department shall allocate mercury allowances to each mercury budget unit in an amount determined by multiplying the total amount of mercury allowances under subsection (a)(1) by the ratio of the baseline heat input of such mercury budget unit to the total amount of baseline heat input of all such mercury budget units and rounding to the nearest whole allowance as appropriate.

(e) For each control period in 2010 and thereafter, the department shall allocate mercury allowances to mercury budget units that commenced operation on or after January 1, 2001, and do not yet have a baseline heat input or that have a baseline heat input but all mercury allowances available under subsection (d) for the control period are already allocated, as determined under subsection (c), in accordance with the following procedures:

(1) The department shall establish a separate new unit set-aside for each control period equal to the following:

(A) Two thousand six hundred eighty-four (2,684) ounces in 2010 through 2014.

(B) One thousand three hundred forty-two (1,342) ounces in 2015 through 2017.

(C) Five hundred thirty (530) ounces in 2018 through 2021.

(D) Seven hundred ninety-five (795) ounces in 2022 and thereafter.

(2) The mercury designated representative of such a mercury budget unit may submit to the department a request, in a format specified by the department, to be allocated mercury allowances, starting with the later of the control period in 2010 or the first control period after the control period in which the mercury budget unit commences commercial operation and until the first control period for which the unit is allocated mercury allowances under subsection (d). A separate mercury allowance allocation request for each control period for which mercury allowances are sought must be submitted on or before May 1 of such control period and after the date on which the mercury budget unit commences commercial operation.

(3) In a mercury allowance allocation request under subdivision (2), the mercury designated representative may request for a control period mercury allowances:

(A) in an amount not exceeding the mercury budget unit's total ounces of mercury emissions during the calendar year immediately before such control period; or

(B) for a clean coal technology unit commencing operation before January 1, 2018, in an amount not exceeding the product of multiplying the allowable mercury emission rate at 40 CFR 60.45Da(b)* by the number of megawatt-hours of electricity that would result from utilization of the unit at eighty-five percent (85%) of rated capacity for any consecutive twelve (12) months multiplied by 16.

(4) The department shall review each mercury allowance allocation request under subdivision (2) and shall allocate mercury allowances for each control period pursuant to such request as follows:

(A) The department shall accept an allowance allocation request only if the request meets, or is adjusted by the department as necessary to meet, the requirements of subdivisions (2) and (3).

(B) On or after May 1 of the control period, the department shall determine the sum of the mercury allowances requested, as adjusted under clause (A), in all allowance allocation requests accepted under clause (A) for the control period.

(C) If the amount of mercury allowances in the new unit set-aside for the control period is greater than or equal to the sum under clause (B), then the department shall allocate the amount of mercury allowances requested, as adjusted under clause (A), to each mercury budget unit covered by an allowance allocation request accepted under clause (A).

(D) If the amount of mercury allowances in the new unit set-aside for the control period is less than the sum under clause (B), then the department shall allocate to each mercury budget unit covered by an allowance allocation request accepted under clause (A) the amount of the mercury allowances requested, as adjusted under clause (A), multiplied by the amount of mercury allowances in the new unit set-aside for the control period, divided by the sum determined under clause (B), and rounded to the nearest whole allowance as appropriate.

(E) The department shall notify each mercury designated representative that submitted an allowance allocation request of the amount of mercury allowances, if any, allocated for the control period to the mercury budget unit covered by the request and submit the mercury allowances to the U.S. EPA according to subsection (b)(3).

(f) For each control period in 2010 through 2021, the department shall allocate mercury allowances to clean coal technology units that commenced operation on or after January 1, 2001, in accordance with the following procedures:

(1) The department shall establish a separate clean coal technology set-aside for each control equal to the following:

(A) Six hundred seventy-one (671) ounces in 2010 through 2017.

(B) Two hundred sixty-five (265) ounces in 2018 and through 2021.

(2) The mercury designated representative of such a clean coal technology unit may submit to the department a request, in a format specified by the department, to be allocated mercury allowances from the set-aside established pursuant to subdivision (1) for any control period during or after which the unit commences commercial operation. A separate mercury allowance allocation request for each control period for which mercury allowances are sought must be submitted on or before May 1 of such control period and after the date on which the mercury budget unit commences commercial operation. Requests for a particular unit may be submitted for any control period through and including 2021.

(3) In a mercury allowance allocation request under subdivision (2), the mercury designated representative may request for a control period mercury allowances in an amount not exceeding the product of multiplying the allowable mercury emission rate at 40 CFR 60.45Da(b)* by the number of megawatt-hours of electricity that would result from utilization of the unit at eighty-five percent (85%) of rated capacity for any consecutive twelve (12) months multiplied by 16.

(4) The department shall review each mercury allowance allocation request under subdivision (2) and shall allocate mercury allowances from the clean coal technology set-aside for each control period pursuant to such request as follows:

(A) The department shall accept an allowance allocation request only if the request meets, or is adjusted by the department as necessary to meet, the requirements of subdivisions (2) and (3).

(B) On or after May 1 of the control period, the department shall determine the sum of the mercury allowances requested, as adjusted under clause (A), in all allowance allocation requests accepted under clause (A) for the control period.

(C) If the amount of mercury allowances in the clean coal technology set-aside for the control period is greater than or equal to the sum under clause (B), then the department shall allocate the amount of mercury allowances requested, as adjusted under clause (A), to each mercury budget unit covered by an allowance allocation request accepted under clause (A).

(D) If the amount of mercury allowances in the clean coal technology set-aside for the control period is less than the sum under clause (B), but the new unit set-aside is under-subscribed, the department shall allocate the amount of mercury allowances requested with the difference allocated from the new unit set-aside.

(E) If the amount of mercury allowances in the clean coal technology set-aside for the control period, as supplemented by any remaining unallocated allowances from the new unit set-aside for the control period, is less than the sum under clause (B), then the department shall allocate to each mercury budget unit covered by an allowance allocation request accepted under clause (A) the amount of mercury allowances requested, as adjusted under clause (A), multiplied by the total of the amount of mercury allowances in the clean coal technology set-aside and the amount of remaining unallocated allowances in the new unit-aside for the control period, divided by the sum determined under clause (B), and rounded to the nearest whole allowance as appropriate.

(F) The department shall notify each mercury designated representative that submitted an allowance allocation request of the amount of mercury allowances, if any, allocated for the control period to the mercury budget unit covered by the request out of the clean coal technology set-aside and submit the mercury allowances to the U.S. EPA according to subsection (b)(3).

(g) If, after completion of the procedures under subsections (e)(4) and (f)(4) for a control period, any unallocated mercury allowances remain in the new unit set-aside or the clean coal technology set-aside for the control period, the department shall allocate to each mercury budget unit that was allocated mercury allowances under subsection (d) an amount of mercury allowances equal to the total amount of such remaining unallocated mercury allowances, multiplied by the unit's allocation under subsection (d), divided by:

(1) sixty-three thousand seven hundred forty-nine (63,749) in 2010 through 2014;

(2) sixty-five thousand ninety-one (65,091) in 2015 through 2017;

(3) twenty-five thousand seven hundred one (25,701) in 2018 and thereafter, rounded to the nearest whole allowance as appropriate.

*These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204.

[326 IAC 24-4-9](#) Mercury allowance tracking system

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 9. (a) Upon receipt of a complete certificate of representation under section 6(h) of this rule, the U.S. EPA will establish a compliance account for the mercury budget source for which the certificate of representation was submitted unless the source already has a compliance account.

(b) Any person may apply to open a general account for the purpose of holding and transferring mercury allowances. An application for a general account may designate one (1) and only one (1) mercury authorized account representative and one (1) and only one (1) alternate mercury authorized account representative who may act on behalf of the mercury authorized account representative. The agreement by which the alternate mercury authorized account representative is selected shall include a procedure for authorizing the alternate mercury authorized account representative to act in lieu of the mercury authorized account representative. The establishment of a general account shall be subject to the following:

(1) A complete application for a general account shall be submitted to the U.S. EPA and shall include the following elements in a format prescribed by the U.S. EPA:

(A) The following information concerning the mercury authorized account representative and any alternate mercury authorized account representative:

(i) Name.

(ii) Mailing address.

(iii) E-mail address, if any.

(iv) Telephone number.

(v) Facsimile transmission number, if any.

(B) Organization name and type of organization, if applicable.

(C) A list of all persons subject to a binding agreement for the mercury authorized account representative and any alternate mercury authorized account representative to represent their ownership interest with respect to the mercury allowances held in the general account.

(D) The following certification statement by the mercury authorized account representative and any alternate mercury authorized account representative: "I certify that I was selected as the mercury authorized account representative or the alternate mercury authorized account representative, as applicable, by an agreement that is binding on all persons who have an ownership interest with respect to mercury allowances held in the general account. I certify that I have all the necessary authority to carry out my duties and responsibilities under the mercury budget trading program on behalf of such persons and that each such person shall be fully bound by my representations, actions, inactions, or submissions and by any order or decision issued to me by the U.S. EPA or a court regarding the general account."

(E) The signature of the mercury authorized account representative and any alternate mercury authorized account representative and the dates signed.

(F) Unless otherwise required by the department or the U.S. EPA, documents of agreement referred to in the application for a general account shall not be submitted to the department or the U.S. EPA. Neither the department nor the U.S. EPA shall be under any obligation to review or evaluate the sufficiency of such documents, if submitted.

(2) Upon receipt by the U.S. EPA of a complete application for a general account under subdivision (1), the following shall apply:

(A) The U.S. EPA will establish a general account for the person or persons for whom the application is submitted.

(B) The mercury authorized account representative and any alternate mercury authorized account representative for the general account shall represent and, by his or her representations, actions, inactions, or submissions, legally bind each person who has an ownership interest with respect to mercury allowances held in the general account in all matters pertaining to the mercury budget trading program, notwithstanding any agreement between the mercury authorized account representative or any alternate mercury authorized account representative and such person. Any such person shall be bound by any order or decision issued to the mercury authorized account

representative or any alternate mercury authorized account representative by the U.S. EPA or a court regarding the general account.

(C) Any representation, action, inaction, or submission by any alternate mercury authorized account representative shall be deemed to be a representation, action, inaction, or submission by the mercury authorized account representative.

(D) Each submission concerning the general account shall be submitted, signed, and certified by the mercury authorized account representative or any alternate mercury authorized account representative for the persons having an ownership interest with respect to mercury allowances held in the general account. Each such submission shall include the following certification statement by the mercury authorized account representative or any alternate mercury authorized account representative: "I am authorized to make this submission on behalf of the persons having an ownership interest with respect to the mercury allowances held in the general account. I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment."

(E) The U.S. EPA will accept or act on a submission concerning the general account only if the submission has been made, signed, and certified in accordance with clause (D).

(3) The following shall apply to changing the mercury authorized account representative, and alternate mercury authorized account representative, and changes in persons with ownership interest:

(A) The mercury authorized account representative for a general account may be changed at any time upon receipt by the U.S. EPA of a superseding complete application for a general account under subdivision (1). Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous mercury authorized account representative before the time and date when the U.S. EPA receives the superseding application for a general account shall be binding on the new mercury authorized account representative and the persons with an ownership interest with respect to the mercury allowances in the general account.

(B) The alternate mercury authorized account representative for a general account may be changed at any time upon receipt by the U.S. EPA of a superseding complete application for a general account under subdivision (1). Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous alternate mercury authorized account representative before the time and date when the U.S. EPA receives the superseding application for a general account shall be binding on the new alternate mercury authorized account representative and the persons with an ownership interest with respect to the mercury allowances in the general account.

(C) In the event a person having an ownership interest with respect to mercury allowances in the general account is not included in the list of such persons in the application for a general account, such person shall be deemed to be subject to and bound by the application for a general account, the representation, actions, inactions, and submissions of the mercury authorized account representative and any alternate mercury authorized account representative of the account, and the decisions and orders of the U.S. EPA or a court, as if the person were included in such list.

(D) Within thirty (30) days following any change in the persons having an ownership interest with respect to mercury allowances in the general account, including the addition of new persons, the mercury authorized account representative or any alternate mercury authorized account representative shall submit a revision to the application for a general account amending the list of persons having an ownership interest with respect to the mercury allowances in the general account to include the change.

(4) Once a complete application for a general account under subdivision (1) has been submitted and received, the U.S. EPA will rely on the application unless and until a superseding complete application for a general account under subdivision (1) is received by the U.S. EPA.

(5) Except as provided in subdivision (3)(A) or (3)(B), no objection or other communication submitted to the U.S. EPA concerning the authorization, or any representation, action, inaction, or submission of the mercury authorized account representative or any alternate mercury authorized account representative for a general account shall affect any representation, action, inaction, or submission of the mercury authorized account representative or any alternate mercury authorized account representative or the finality of any decision or order by the U.S. EPA under the mercury budget trading program.

(6) The U.S. EPA will not adjudicate any private legal dispute concerning the authorization or any representation, action, inaction, or submission of the mercury authorized account representative or any alternate mercury authorized account representative for a general account, including private legal

disputes concerning the proceeds of mercury allowance transfers.

(7) The following shall apply to delegation by the mercury authorized account representative and alternate mercury authorized account representative:

(A) A mercury authorized account representative may delegate, to one (1) or more natural persons, his or her authority to make an electronic submission to the U.S. EPA provided for or required under this section and section 10 of this rule.

(B) An alternate mercury authorized account representative may delegate, to one (1) or more natural persons, his or her authority to make an electronic submission to the U.S. EPA provided for or required under this section and section 10 of this rule.

(C) In order to delegate authority to make an electronic submission to the U.S. EPA in accordance with clause (A) or (B), the mercury authorized account representative or alternate mercury authorized account representative, as appropriate, must submit to the U.S. EPA a notice of delegation, in a format prescribed by the U.S. EPA, that includes the following elements:

(i) The name, address, e-mail address, telephone number, and, if any, facsimile transmission number of the following:

(AA) The mercury authorized account representative or alternate mercury authorized account representative.

(BB) Each natural person, referred to as an "agent".

(ii) For each such natural person, a list of the type or types of electronic submissions under clause (A) or (B) for which authority is delegated to him or her.

(iii) The following certification statements by such mercury authorized account representative or alternate mercury authorized account representative:

(AA) "I agree that any electronic submission to the U.S. EPA that is by an agent identified in this notice of delegation and of a type listed for such agent in this notice of delegation and that is made when I am a mercury authorized account representative or alternate mercury authorized representative, as appropriate, and before this notice of delegation is superseded by another notice of delegation under [326 IAC 24-4-9\(b\)\(7\)\(D\)](#) shall be deemed to be an electronic submission by me."

(BB) "Until this notice of delegation is superseded by another notice of delegation under [326 IAC 24-4-9\(b\)\(7\)\(D\)](#), I agree to maintain an e-mail account and to notify the U.S. EPA immediately of any change in my e-mail address unless all delegation of authority by me under [326 IAC 24-4-9\(b\)\(7\)](#) is terminated."

(D) A notice of delegation submitted under clause (C) shall be effective, with regard to the mercury authorized account representative or alternate mercury authorized account representative identified in such notice, upon receipt of such notice by the U.S. EPA and until receipt by the U.S. EPA of a superseding notice of delegation submitted by such mercury authorized account representative or alternate mercury authorized account representative, as appropriate. The superseding notice of delegation may:

(i) replace any previously identified agent;

(ii) add a new agent; or

(iii) eliminate entirely any delegation of authority.

(E) Any electronic submission:

(i) covered by the certification in clause (C)(iii)(AA); and

(ii) made in accordance with a notice of delegation effective under clause (D);

shall be deemed to be an electronic submission by the mercury authorized account representative or alternate mercury authorized account representative submitting such notice of delegation.

(c) The U.S. EPA will assign a unique identifying number to each account established under subsection (a) or (b).

(d) Following the establishment of a mercury allowance tracking system account, all submissions to the U.S. EPA pertaining to the account, including, but not limited to, submissions concerning the deduction or transfer of mercury allowances in the account, shall be made only by the mercury authorized account representative for the account.

(e) The U.S. EPA will record in the mercury budget source's compliance account the mercury allowances allocated for the mercury budget units at the source, as submitted by the department in accordance with section 8(b)(1) of this rule, for the control periods in 2010, 2011, 2012, 2013, and 2014.

(f) By December 1, 2009, and every six (6) years thereafter, the U.S. EPA will record in the mercury budget source's compliance account the mercury allowances allocated for the mercury budget units at the source, as submitted by the department in accordance with section 8(b)(2) of this rule, for the control periods six (6), seven (7), eight (8), nine (9), ten (10), and eleven (11) years after the allowance allocation.

(g) By December 1, 2010, and December 1 of each year thereafter, the U.S. EPA will record in the mercury budget source's compliance account the mercury allowances allocated for the mercury budget units at the source, as submitted by the department in accordance with section 8(b)(3) of this rule, for the control period in the year of the applicable deadline for recordation under this subsection.

(h) When recording the allocation of mercury allowances for a mercury budget unit in a compliance account, the U.S. EPA will assign each mercury allowance a unique identification number that will include digits identifying the year of the control period for which the mercury allowance is allocated.

(i) Mercury allowances are available to be deducted for compliance with a source's mercury budget emissions limitation for a control period in a given calendar year only if the mercury allowances:

- (1) were allocated for the control period in the year or a prior year; and
- (2) are held in the compliance account as of the allowance transfer deadline for the control period or are transferred into the compliance account by a mercury allowance transfer correctly submitted for recordation under section 10(a) through 10(d) of this rule by the allowance transfer deadline for the control period.

(j) The following shall apply to deductions for purposes of compliance with a source's emissions limitations:

(1) Following the recordation, in accordance with section 10(b) through 10(d) of this rule, of mercury allowance transfers submitted for recordation in a source's compliance account by the allowance transfer deadline for a control period, the U.S. EPA will deduct from the compliance account mercury allowances available under subsection (i) in order to determine whether the source meets the mercury budget emissions limitation for the control period in one (1) of the following ways:

(A) Until the amount of mercury allowances deducted equals the number of ounces of total mercury emissions, determined in accordance with section 11 of this rule, from all mercury budget units at the source for the control period.

(B) If there are insufficient mercury allowances to complete the deductions in clause (A), until no more mercury allowances available under subsection (i) remain in the compliance account.

(2) The mercury authorized account representative for a source's compliance account may request that specific mercury allowances, identified by serial number, in the compliance account be deducted for emissions or excess emissions for a control period in accordance with subdivision (1), (4), or (5). Such request shall:

(A) be submitted to the U.S. EPA by the allowance transfer deadline for the control period; and

(B) include, in a format prescribed by the U.S. EPA, the identification of the mercury budget source and the appropriate serial numbers.

(3) The U.S. EPA will deduct mercury allowances under subdivision (1), (4), or (5) from the source's compliance account, in the absence of an identification or in the case of a partial identification of mercury allowances by serial number under subdivision (2), on a first-in, first-out (FIFO) accounting basis in the following order:

(A) Any mercury allowances that were allocated to the units at the source, in the order of recordation.

(B) Any mercury allowances that were allocated to any entity and transferred and recorded in the compliance account under section 10 of this rule, in the order of recordation.

(4) After making the deductions for compliance under subdivision (1) for a control period in a calendar year in which the mercury budget source has excess emissions, the U.S. EPA will deduct from the source's compliance account an amount of mercury allowances, allocated for the control period in the immediately following calendar year, equal to three (3) times the number of ounces of the source's excess emissions.

(5) Any allowance deduction required under subdivision (4) shall not affect the liability of the owners and operators of the mercury budget source or the mercury budget units at the source for any fine, penalty, or assessment, or their obligation to comply with any other remedy, for the same violations, as ordered under the Clean Air Act or applicable state law.

(6) The U.S. EPA will record in the appropriate compliance account all deductions from such an

account under subdivision (1), (4), and (5).

(7) The U.S. EPA may:

- (A) review and conduct independent audits concerning any submission under the mercury budget trading program; and
- (B) make appropriate adjustments of the information in the submissions.

(8) The U.S. EPA may:

- (A) deduct mercury allowances from or transfer mercury allowances to a source's compliance account based on the information in the submissions, as adjusted under subdivision (7); and
- (B) record such deductions and transfers.

(k) Mercury allowances may be banked for future use or transfer in a compliance account or a general account. Any mercury allowance that is held in a compliance account or a general account will remain in such account unless and until the mercury allowance is deducted or transferred under subsection (i), (j), or (l) or section 10 of this rule.

(l) The U.S. EPA may, at its sole discretion and on its own motion, correct any error in any mercury allowance tracking system account. Within ten (10) business days of making such correction, the U.S. EPA will notify the mercury authorized account representative for the account.

(m) The mercury authorized account representative of a general account may submit to the U.S. EPA a request to close the account, which shall include a correctly submitted allowance transfer under section 10(a) through 10(d) of this rule for any mercury allowances in the account to one (1) or more other mercury allowance tracking system accounts.

(n) If a general account has no allowance transfers in or out of the account for a twelve (12) month period or longer and does not contain any mercury allowances, the U.S. EPA may notify the mercury authorized account representative for the account that the account will be closed following twenty (20) business days after the notice is sent. The account will be closed after the twenty (20) day period unless, before the end of the twenty (20) day period, the U.S. EPA receives a:

- (1) correctly submitted transfer of mercury allowances into the account under section 10(a) through 10(d) of this rule; or
- (2) statement submitted by the mercury authorized account representative demonstrating to the satisfaction of the U.S. EPA good cause as to why the account should not be closed.

(Air Pollution Control Board; [326 IAC 24-4-9](#); filed Jan 4, 2008, 1:38 p.m.: [20080130-IR-326050116FRA](#))

[326 IAC 24-4-10](#) Mercury allowance transfers

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 10. (a) A mercury authorized account representative seeking recordation of a mercury allowance transfer shall submit the transfer to the U.S. EPA. To be considered correctly submitted, the mercury allowance transfer shall include the following elements, in a format specified by the U.S. EPA:

- (1) The account numbers for both the transferor and transferee accounts.
- (2) The serial number of each mercury allowance that is in the transferor account and is to be transferred.
- (3) The name and signature of the mercury authorized account representative of the transferor account and the date signed.

(b) Within five (5) business days, except as provided in subsection (c), of receiving a mercury allowance transfer, the U.S. EPA will record a mercury allowance transfer by moving each mercury allowance from the transferor account to the transferee account as specified by the request, provided the following:

- (1) The transfer is correctly submitted under subsection (a).
- (2) The transferor account includes each mercury allowance identified by serial number in the transfer.

(c) A mercury allowance transfer that is submitted for recordation after the allowance transfer deadline for a control period and that includes any mercury allowances allocated for any control period before such allowance transfer deadline will not be recorded until after the U.S. EPA completes the deductions under section 9(i) and 9(j) of this rule for the control period immediately before such allowance transfer deadline.

(d) Where a mercury allowance transfer submitted for recordation fails to meet the requirements of subsection (b), the U.S. EPA will not record such transfer.

(e) The following notification requirements shall apply to mercury allowance transfers:

(1) Within five (5) business days of recordation of a mercury allowance transfer under subsections (b) through (d), the U.S. EPA will notify the mercury authorized account representatives of both the transferor and transferee accounts.

(2) Within ten (10) business days of receipt of a mercury allowance transfer that fails to meet the requirements of subsection (b), the U.S. EPA will notify the mercury authorized account representatives of both accounts subject to the transfer of a decision not to record the transfer and the reasons for such nonrecordation.

(f) Nothing in this section shall preclude the submission of a mercury allowance transfer for recordation following notification of nonrecordation.

(Air Pollution Control Board; [326 IAC 24-4-10](#); filed Jan 4, 2008, 1:38 p.m.: [20080130-IR-326050116FRA](#))

[326 IAC 24-4-11](#) Mercury monitoring, record keeping, and reporting

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 11. (a) The owners and operators, and to the extent applicable, the mercury designated representative, of a mercury budget unit, shall comply with the monitoring, record keeping, and reporting requirements as provided in this section and 40 CFR 75, Subpart I*. For purposes of complying with such requirements, the definitions in section 2 of this rule and in 40 CFR 72.2* shall apply, and the terms "affected unit", "designated representative", and "continuous emission monitoring system (CEMS)" in 40 CFR 75* shall be deemed to refer to the terms "mercury budget unit", "mercury designated representative", and "continuous emission monitoring system (CEMS)", respectively, as defined in section 2 of this rule. The owner or operator of a unit that is not a mercury budget unit but that is monitored under 40 CFR 75.82(b)(2)(i)* shall comply with the same monitoring, record keeping, and reporting requirements as a mercury budget unit.

(b) The owner or operator of each mercury budget unit shall do the following:

(1) Install all monitoring systems required under this section for monitoring mercury mass emissions and individual unit heat input. This includes all systems required to monitor:

- (A) mercury concentration;
- (B) stack gas moisture content;
- (C) stack gas flow rate; and
- (D) CO₂ or O₂ concentration;

as applicable, in accordance with 40 CFR 75.81* and 40 CFR 75.82*.

(2) Successfully complete all certification tests required under subsections (g) through (j) and meet all other requirements of this section and 40 CFR 75, Subpart I*, applicable to the monitoring systems under subdivision (1).

(3) Record, report, and quality-assure the data from the monitoring systems under subdivision (1).

(c) Except as provided in subsection (f), the owner or operator shall meet the monitoring system certification and other requirements of subsection (b) on or before the dates in subdivisions (1) through (3). The owner or operator shall record, report, and quality-assure the data from the monitoring systems under subsection (b)(1) on and after the following dates:

(1) For the owner or operator of a mercury budget unit that commences commercial operation before

July 1, 2008, by January 1, 2009.

(2) For the owner or operator of a mercury budget unit that commences commercial operation on or after July 1, 2008, by the later of the following dates:

(A) January 1, 2009.

(B) Ninety (90) unit operating days or one hundred eighty (180) calendar days, whichever occurs first, after the date on which the unit commences commercial operation.

(3) For the owner or operator of a mercury budget unit for which construction of a new stack or flue or installation of add-on mercury emission controls, a flue gas desulfurization system, a selective catalytic reduction system, or a compact hybrid particulate collector system is completed after the applicable deadline under subdivision (1) or (2), by the earlier of:

(A) ninety (90) unit operating days after the date on which emissions first exit to the atmosphere through the new stack or flue, add-on mercury emissions controls, flue gas desulfurization system, selective catalytic reduction system, or compact hybrid particulate collector system; or

(B) one hundred eighty (180) calendar days after the date on which emissions first exit to the atmosphere through the new stack or flue, add-on mercury emissions controls, flue gas desulfurization system, selective catalytic reduction system, or compact hybrid particulate collector system.

(d) The owner or operator of a mercury budget unit that does not meet the applicable compliance date set forth in subsection (c) for any monitoring system under subsection (b)(1) shall, for each such monitoring system, determine, record, and report maximum potential or, as appropriate, minimum potential, values for mercury concentration, stack gas flow rate, stack gas moisture content, and any other parameters required to determine mercury mass emissions and heat input in accordance with 40 CFR 75.80(g)*.

(e) The following shall apply to any monitoring system, alternative monitoring system, alternative reference method, or any other alternative for a CEMS required under this rule:

(1) No owner or operator of a mercury budget unit shall use any alternative monitoring system, alternative reference method, or any other alternative to any requirement of this section without having obtained prior written approval in accordance with subsection (o).

(2) No owner or operator of a mercury budget unit shall operate the unit so as to discharge, or allow to be discharged, mercury emissions to the atmosphere without accounting for all such emissions in accordance with the applicable provisions of this section and 40 CFR 75, Subpart I*.

(3) No owner or operator of a mercury budget unit shall disrupt the CEMS, any portion thereof, or any other approved emission monitoring method, and thereby avoid monitoring and recording mercury mass emissions discharged into the atmosphere or heat input, except for periods of recertification or periods when calibration, quality assurance testing, or maintenance is performed in accordance with the applicable provisions of this section and 40 CFR 75, Subpart I*.

(4) No owner or operator of a mercury budget unit shall retire or permanently discontinue use of the CEMS, any component thereof, or any other approved monitoring system under this section, except under any one (1) of the following circumstances:

(A) During the period that the unit is covered by an exemption under section 3 of this rule that is in effect.

(B) The owner or operator is monitoring emissions from the unit with another certified monitoring system approved, in accordance with the applicable provisions of this section and 40 CFR 75, Subpart I*, by the department for use at that unit that provides emission data for the same pollutant or parameter as the retired or discontinued monitoring system.

(C) The mercury designated representative submits notification of the date of certification testing of a replacement monitoring system for the retired or discontinued monitoring system in accordance with subsection (h)(3)(A).

(f) The owner or operator of a mercury unit is subject to the applicable provisions of 40 CFR 75* concerning units in long term cold storage.

(g) The owner or operator of a mercury budget unit shall be exempt from the initial certification requirements of this section for a monitoring system under subsection (b)(1) if the following conditions are met:

(1) The monitoring system has been previously certified in accordance with 40 CFR 75*.

(2) The applicable quality-assurance and quality-control requirements of 40 CFR 75.21* and 40 CFR 75,

Appendix B*, are fully met for the certified monitoring system described in subdivision (1). The recertification provisions of this subsection and subsections (h) through (j) shall apply to a monitoring system under subsection (b)(1) exempt from initial certification requirements under this subsection.

(h) Except as provided in subsection (g), the owner or operator of a mercury budget unit shall comply with the following initial certification and recertification procedures for a continuous monitoring system (that is, a CEMS and an excepted monitoring system (sorbent trap monitoring system) under 40 CFR 75.15*) under subsection (b)(1). The owner or operator of a unit that qualifies to use the mercury low mass emissions excepted monitoring methodology under 40 CFR 75.81(b)* or that qualifies to use an alternative monitoring system under 40 CFR 75, Subpart E* shall comply with the procedures in subsection (i) or (j), respectively:

(1) The owner or operator shall ensure that each continuous monitoring system under subsection (b)(1), including the automated DAHS, successfully completes all of the initial certification testing required under 40 CFR 75.20* by the applicable deadline in subsection (c). In addition, whenever the owner or operator installs a monitoring system to meet the requirements of this rule in a location where no such monitoring system was previously installed, initial certification in accordance with 40 CFR 75.20* is required.

(2) Whenever the owner or operator makes a replacement, modification, or change in any certified CEMS, or an excepted monitoring system (sorbent trap monitoring system) under 40 CFR 75.15*, under subsection (b)(1) that may significantly affect the ability of the system to accurately measure or record mercury mass emissions or heat input rate or to meet the quality-assurance and quality-control requirements of 40 CFR 75.21* or 40 CFR 75, Appendix B*, the owner or operator shall recertify the monitoring system in accordance with 40 CFR 75.20(b)*. Furthermore, whenever the owner or operator makes a replacement, modification, or change to the flue gas handling system or the unit's operation that may significantly change the stack flow or concentration profile, the owner or operator shall recertify each CEMS, and each excepted monitoring system (sorbent trap monitoring system) under 40 CFR 75.15*, whose accuracy is potentially affected by the change, in accordance with 40 CFR 75.20(b)*. Changes to a CEMS that require recertification include, but are not limited to:

- (A) replacement of the analyzer;
- (B) complete replacement of an existing CEMS; or
- (C) change in location or orientation of the sampling probe or site.

(3) Clauses (A) through (D) apply to both initial certification and recertification of a continuous monitoring system under subsection (b)(1). For recertifications, replace the words "certification" and "initial certification" with the word "recertification", replace the word "certified" with the word "recertified", and follow the procedures in 40 CFR 75.20(b)(5)* in lieu of the procedures in clause (E). Requirements for the certification approval process for initial certification, recertification, and loss of certification are as follows:

- (A) The mercury designated representative shall submit to the:
 - (i) department;
 - (ii) appropriate U.S. EPA Regional Office; and
 - (iii) U.S. EPA;

written notice of the dates of certification testing, in accordance with subsection (m).

(B) The mercury designated representative shall submit to the department a certification application for each monitoring system. A complete certification application shall include the information specified in 40 CFR 75.63*.

(C) The provisional certification date for a monitoring system shall be determined in accordance with 40 CFR 75.20(a)(3)*. A provisionally certified monitoring system may be used under the mercury budget trading program for a period not to exceed one hundred twenty (120) days after receipt by the department of the complete certification application for the monitoring system under clause (B). Data measured and recorded by the provisionally certified monitoring system, in accordance with the requirements of 40 CFR 75*, will be considered valid quality-assured data (retroactive to the date and time of provisional certification), provided that the department does not invalidate the provisional certification by issuing a notice of disapproval within one hundred twenty (120) days of the date of receipt of the complete certification application by the department.

(D) The department will issue a written notice of approval or disapproval of the certification application to the owner or operator within one hundred twenty (120) days of receipt of the complete certification application under clause (B). In the event the department does not issue such a notice within such one hundred twenty (120) day period, each monitoring system that meets the applicable performance requirements of 40 CFR 75* and is included in the certification application will be

deemed certified for use under the mercury budget trading program. The issuance of notices shall be as follows:

(i) If the certification application is complete and shows that each monitoring system meets the applicable performance requirements of 40 CFR 75*, then the department will issue a written notice of approval of the certification application within one hundred twenty (120) days of receipt.

(ii) If the certification application is not complete, then the department will issue a written notice of incompleteness that sets a reasonable date by which the mercury designated representative must submit the additional information required to complete the certification application. If the mercury designated representative does not comply with the notice of incompleteness by the specified date, then the department may issue a notice of disapproval under item (iii). The one hundred twenty (120) day review period shall not begin before receipt of a complete certification application.

(iii) If the certification application shows that any monitoring system does not meet the performance requirements of 40 CFR 75* or if the certification application is incomplete and the requirement for disapproval under item (ii) is met, then the department will issue a written notice of disapproval of the certification application. Upon issuance of such notice of disapproval, the provisional certification is invalidated by the department and the data measured and recorded by each uncertified monitoring system shall not be considered valid quality-assured data beginning with the date and hour of provisional certification, as defined under 40 CFR 75.20(a)(3)*. The owner or operator shall follow the procedures for loss of certification in clause (E) for each monitoring system that is disapproved for initial certification.

(iv) The department may issue a notice of disapproval of the certification status of a monitor in accordance with subsection (I).

(E) If the department issues a notice of disapproval of a certification application under clause (D)(iii) or a notice of disapproval of certification status under clause (D)(iv), then the following shall apply:

(i) The owner or operator shall substitute the following values, for each disapproved monitoring system, for each hour of unit operation during the period of invalid data specified under 40 CFR 75.20(a)(4)(iii)* or 40 CFR 75.21(e)* and continuing until the applicable date and hour specified under 40 CFR 75.20(a)(5)(i)*:

(AA) For a disapproved mercury pollutant concentration monitor and disapproved flow monitor, respectively, the maximum potential concentration of mercury and the maximum potential flow rate, as defined in 40 CFR 75, Appendix A, Sections 2.1.7.1 and 2.1.4.1*.

(BB) For a disapproved moisture monitoring system and disapproved diluent gas monitoring system, respectively, the minimum potential moisture percentage and either the maximum potential CO₂ concentration or the minimum potential O₂ concentration, as applicable, as defined in 40 CFR 75, Appendix A, Sections 2.1.5, 2.1.3.1, and 2.1.3.2*.

(CC) For a disapproved excepted monitoring system (sorber trap monitoring system) under 40 CFR 75.15* and disapproved flow monitor, respectively, the maximum potential concentration of mercury and maximum potential flow rate, as defined in 40 CFR 75, Appendix A, Sections 2.1.7.1 and 2.1.4.1*.

(ii) The mercury designated representative shall submit a notification of certification retest dates and a new certification application in accordance with clauses (A) and (B).

(iii) The owner or operator shall repeat all certification tests or other requirements that were failed by the monitoring system, as indicated in the department's notice of disapproval, not later than thirty (30) unit operating days after the date of issuance of the notice of disapproval.

(i) The owner or operator of a unit qualified to use the mercury low mass emissions (HgLME) excepted methodology under 40 CFR 75.81(b)* shall meet the applicable certification and recertification requirements in 40 CFR 75.81(c) through 40 CFR 75.81(f)*.

(j) The mercury designated representative of each unit for which the owner or operator intends to use an alternative monitoring system approved by the U.S. EPA under 40 CFR 75, Subpart E*, shall comply with the applicable notification and application procedures of 40 CFR 75.20(f)*.

(k) Whenever any monitoring system fails to meet the quality-assurance and quality-control requirements or data validation requirements of 40 CFR 75*, data shall be substituted using the applicable missing data procedures in 40 CFR 75, Subpart D*.

(l) Whenever both an audit of a monitoring system and a review of the initial certification or recertification application reveal that any monitoring system should not have been certified or recertified

because it did not meet a particular performance specification or other requirement under subsections (g) through (j) or the applicable provisions of 40 CFR 75*, both at the time of the initial certification or recertification application submission and at the time of the audit, the department will issue a notice of disapproval of the certification status of such monitoring system. For the purposes of this subsection, an audit shall be either a field audit or an audit of any information submitted to the department or the U.S. EPA. By issuing the notice of disapproval, the department revokes, prospectively, the certification status of the monitoring system. The data measured and recorded by the monitoring system shall not be considered valid quality-assured data from the date of issuance of the notification of the revoked certification status until the date and time that the owner or operator completes subsequently approved initial certification or recertification tests for the monitoring system. The owner or operator shall follow the applicable initial certification or recertification procedures in subsections (g) through (j) for each disapproved monitoring system.

(m) The mercury designated representative for a mercury budget unit shall submit written notice to the department and the U.S. EPA in accordance with 40 CFR 75.61*.

(n) The mercury designated representative shall comply with all record keeping and reporting requirements in this subsection, the applicable record keeping and reporting requirements of 40 CFR 75.84*, and the requirements of section 6(e)(1) of this rule as follows:

(1) The owner or operator of a mercury budget unit shall comply with the requirements of 40 CFR 75.84(e)*.

(2) The mercury designated representative shall submit an application to the department within forty-five (45) days after completing all initial certification or recertification tests required under subsections (g) through (j), including the information required under 40 CFR 75.63*.

(3) The mercury designated representative shall submit quarterly reports, as follows:

(A) Report the mercury mass emissions data and heat input data for the mercury budget unit, in an electronic format prescribed by the U.S. EPA, for each calendar quarter beginning with:

(i) for a unit that commences commercial operation before July 1, 2008, the calendar quarter covering January 1, 2009, through March 31, 2009; or

(ii) for a unit that commences commercial operation on or after July 1, 2008, the calendar quarter corresponding to the earlier of the date of provisional certification or the applicable deadline for initial certification under subsection (c), unless that quarter is the third or fourth quarter of 2008, in which case reporting shall commence in the quarter covering January 1, 2009, through March 31, 2009.

(B) Submit each quarterly report to the U.S. EPA within thirty (30) days following the end of the calendar quarter covered by the report. Quarterly reports shall be submitted in the manner specified in 40 CFR 75.84(f)*.

(C) For mercury budget units that are also subject to an acid rain emissions limitation or the CAIR NO_x annual trading program, CAIR SO₂ trading program, or CAIR NO_x ozone season trading program, quarterly reports shall include the applicable data and information required by 40 CFR 75, Subparts F through H*, as applicable, in addition to the mercury mass emission data, heat input data, and other information required by this section.

(4) The mercury designated representative shall submit to the U.S. EPA a compliance certification, in a format prescribed by the U.S. EPA, in support of each quarterly report based on reasonable inquiry of those persons with primary responsibility for ensuring that all of the unit's emissions are correctly and fully monitored. The certification shall state the following:

(A) The monitoring data submitted were recorded in accordance with the applicable requirements of this section and 40 CFR 75*, including the quality assurance procedures and specifications.

(B) For a unit with add-on mercury emission controls, a flue gas desulfurization system, a selective catalytic reduction system, or a compact hybrid particulate collector system and for all hours where mercury data are substituted in accordance with 40 CFR 75.34(a)(1)*:

(i) the mercury add-on emission controls, flue gas desulfurization system, selective catalytic reduction system, or compact hybrid particulate collector system were operating within the range of parameters listed in the quality assurance or quality control program under 40 CFR 75, Appendix B*; or

(ii) with regard to a flue gas desulfurization system or a selective catalytic reduction system, quality-assured SO₂ emission data recorded in accordance with 40 CFR 75* document that the flue gas desulfurization system was operating properly or quality-assured NO_x emission data recorded in accordance with 40 CFR 75* document that the selective catalytic system was operating properly, as applicable; and

(iii) the substitute data values do not systematically underestimate mercury emissions.

(o) The mercury designated representative of a mercury budget unit may submit a petition under 40 CFR 75.66* to the U.S. EPA requesting approval to apply an alternative to any requirement of this section. Application of an alternative to any requirement of this section is in accordance with this section only to the extent that the petition is approved in writing by the U.S. EPA, in consultation with the department.

*These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204.

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