



S.B. 231

125th General Assembly
(As Introduced)

Sens. Hagan, Fingerhut, Fedor

BILL SUMMARY

- Requires the owners or operators of certain coal-burning electric generation facilities to achieve and maintain a specified mercury emissions rate by December 15, 2007.
- Authorizes the Director of Environmental Protection, in certain instances, to extend the deadline for achieving the mercury emissions rate requirements and to exempt a generation facility from the mercury emissions rate requirements.
- Establishes a penalty for knowingly failing to comply with the bill's mercury emissions rate requirements of not more than \$10,000 for each day of noncompliance.
- Requires the owner or operator of a generation facility to monitor emissions of the facility and report results to the Director on a quarterly basis.
- Requires the Director to establish alternative emissions limits for generation facilities if properly installed and operated control technology fails to achieve the mercury emissions rate requirements established by the bill.
- Requires the Director, not later than July 1, 2012, to conduct a review of mercury emissions limits applicable to generation facilities.
- Authorizes the Director, after December 15, 2012, to adopt rules imposing emissions limits that are more stringent than the emissions rate requirements under the bill or the alternative emissions limits previously established by the Director.

CONTENT AND OPERATION

Overview

(R.C. 3704.36)

The bill requires certain coal-burning electric generation facilities to reduce the amount of mercury they emit starting December 15, 2007. The Director of Environmental Protection is required to set alternative emissions limits for those generation facilities unable, under certain circumstances, to meet the bill's requirements. To ensure compliance with the bill's emissions standards, generation facilities are required to monitor emissions and report results to the Director on a quarterly basis. Additionally, the Director is authorized to adopt rules that are necessary for the administration of the bill's provisions.

Meeting emissions rate requirements

(R.C. 3704.05, 3704.31, and 3704.35; R.C. 3704.99, not in the bill)

The bill requires the owner or operator of an "affected unit" to achieve and maintain either (1) a mercury emissions rate equal to or less than 0.6 pounds of mercury per trillion British thermal units of heat input ("TBtu") or (2) a mercury emissions rate equal to a 90% reduction in the amount of mercury exiting, or, in the case of a "Fluidized bed combustion unit," input to the combustion source.¹ The owner or operator is to select the mercury emissions rate that is determined, by the owner or operator, to be the most readily achievable. For purposes of the bill, an "affected unit" is defined as any air contaminant source that generates electricity and combusts coal in an amount greater than 10% of its total heat input on a rolling 12-month basis. The Director of Environmental Protection may allow the owner or operator of two or more affected units that are located at the same facility to average the emissions of those affected units for purposes of complying with the emission rate requirements.

The Director may issue an order extending the deadline for complying with the emissions rate requirements referenced above to December 15, 2012. To qualify for such an extension, however, the owner or operator of an affected unit must enter into an agreement with the Director to install and operate air pollution control systems to control other specified air pollutants. Specifically, the systems

¹ "Fluidized bed combustion unit" means a combustion unit in which fuel is introduced into a layer of solid particles kept in turbulent motion by air that is forced into the layer from below, resulting in a thorough mixing and intimate contact of the fuel and other reactants. (R.C. 3704.30(E).)

must control (1) the emissions of nitrogen oxides to less than 0.1 pounds per one million British thermal units of heat input ("Btus") for dry bottom boilers and 0.13 pounds per one million Btus for wet bottom boilers and (2) the emissions of sulfur dioxide to less than 0.15 pounds per one million Btus.²

Additionally, the Director may issue an order exempting an affected unit from the emissions rate requirements if the owner or operator enters into an agreement with the Director by December 15, 2007, to close the facility by December 15, 2012.

An owner or operator of an affected unit who knowingly fails to comply with the emissions rate requirements established under the bill is to be fined not more than \$10,000 for each day of noncompliance. Also, an owner or operator entering into an extension or exemption agreement detailed above is subject to the same penalty for knowingly failing to comply with such an agreement.

Testing emissions

(R.C. 3704.33)

The owner or operator of an affected unit must demonstrate compliance with the mercury emissions rate requirements established under the bill, or with alternative emissions limits established by the Director (see "**Alternative emissions limits**"), by averaging stack tests conducted during the two most recent calendar quarters. The tests must be conducted each calendar quarter in accordance with (1) the U.S. Environmental Protection Agency's (EPA) Method 29 for the determination of metal emissions from stationary sources, as set forth in 40 C.F.R. 60, Appendix A, as amended, or (2) any other alternative method approved by the EPA or the Director. The stack tests must be conducted while the affected unit is burning coal or coal blends representative of the coal or coal blends used during the quarters represented by the stack tests.

The bill requires the owner or operator of an affected unit, in certain instances, to install and operate continuous emission monitors for mercury in flue gases in lieu of conducting stack tests. The Director must first determine that continuous emission monitors are commercially available and can perform in accordance with standards established by the National Institute of Technology Standards, or with other methodology approved by the EPA. Upon such a determination by the Director, the owner or operator of an affected unit must

² Under the bill, the control systems also are to control the emissions of sulfur dioxide to 0.03 pounds per one million Btus. However, this appears to be a drafting error as this would require two different emissions rates for sulfur dioxide.

properly install and operate the continuous emission monitors and is no longer required to conduct stack testing. To demonstrate compliance with the mercury emissions rate requirements established under the bill, or with alternative emissions limits established by the Director, the owner or operator of an affected unit must use an average of the continuous emission monitor data recorded at the affected unit during the most recent calendar quarter.

Quarterly, the owner or operator of an affected unit must report to the Director the results of any stack test or the average of the continuous emission monitor data.

Alternative emissions limits

(R.C. 3704.32)

The bill requires the owner or operator of an affected unit to notify the Director by February 1, 2009, if properly installed and operated control technology that is designed to achieve the mercury emissions rate requirements fails to do so. Upon notification and based on the result of stack tests performed between February 1, 2009, and April, 1, 2010, the Director is required to establish an alternative emissions limit for the affected unit. Such alternative emissions limits must be established by April 1, 2010, and must be based on the control technology's optimized performance. For purposes of the bill, the owner or operator of the affected unit is deemed to have complied with the emissions rate requirements if, during the period from December 15, 2007 to the date the alternative emissions limit was established, the owner or operator maintained and operated the affected unit in a manner consistent with good air pollution control practices to minimize mercury emissions. The Director is required to provide guidelines for what constitutes such good air pollution control practices. In determining if the practices are being followed, the Director can inspect the unit and review the monitoring results and operating and maintenance procedures of the owner or operator.

The Director must incorporate an affected unit's alternative emissions limit into the facility's Title V permit and review the limit whenever a renewal is sought for the permit.³ During the review process, the Director may impose a more

³ *The Director is responsible for the development and administration of a federally approvable "Title V" permit program and must take all necessary and appropriate action to implement, through the issuance of Title V permits, applicable requirements of the Federal Clean Air Act. Title V permits are generally required for power plants and other major sources of air pollution. (See, R.C. 3704.036.)*

stringent alternative emissions limit based on any new data regarding the demonstrated control capabilities of the control technology.

Review of emissions limits

(R.C. 3704.34)

The bill requires the Director, not later than July 1, 2012, to conduct a review of the mercury emissions limits that are applicable to all affected units. The results of the review are to be made available to the public upon request. On or after December 15, 2012, the Director may adopt rules imposing emissions limits that are more stringent than the emissions rate requirements in the bill or the alternative emissions limits previously established by the Director.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	04-21-04	p. 1750

S0231-I-125.doc/jc

