

LSC 125 1575-1

**125th General Assembly
Regular Session
2003-2004**

. B. No.

A BILL

To amend section 3704.05 and to enact sections 1
3704.30 to 3704.36 of the Revised Code to require 2
electric generating facilities to comply with 3
certain requirements regarding mercury emissions. 4

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 3704.05 be amended and sections 5
3704.30, 3704.31, 3704.32, 3704.33, 3704.34, 3704.35, and 3704.36 6
of the Revised Code be enacted to read as follows: 7

Sec. 3704.05. (A) No person shall cause, permit, or allow 8
emission of an air contaminant in violation of any rule adopted by 9
the director of environmental protection under division (E) of 10
section 3704.03 of the Revised Code unless the person is the 11
holder of a variance that is issued under division (H) of that 12
section and consistent with the federal Clean Air Act permitting 13
the emission of the contaminant in excess of that permitted by the 14
rule or the person is the holder of an operating permit that 15
includes a compliance schedule issued pursuant to rules adopted 16
under division (G) of section 3704.03 of the Revised Code. 17

(B) No person who is the holder of a variance issued under 18
division (H) of section 3704.03 of the Revised Code shall cause, 19
permit, or allow emission of an air contaminant or contaminants 20
listed therein in violation of the conditions of the variance or 21

fail to obey an order of the director issued under authority of 22
that division. 23

(C) No person who is the holder of a permit issued under 24
division (F) or (G) of section 3704.03 of the Revised Code shall 25
violate any of its terms or conditions. 26

(D) No person shall fail to install and maintain monitoring 27
devices or to submit reports or other information as may be 28
required under division (I) of section 3704.03 of the Revised 29
Code. 30

(E) No person to whom a permit or variance has been issued 31
shall refuse entry to an authorized representative of the director 32
or the environmental protection agency as provided in division (M) 33
of section 3704.03 of the Revised Code or hinder or thwart the 34
person in making an investigation. 35

(F) No person shall fail to submit plans and specifications 36
as required by section 3704.03 of the Revised Code. 37

(G) No person shall violate any order, rule, or determination 38
of the director issued, adopted, or made under this chapter. 39

(H) No person shall do any of the following: 40

(1) Falsify any plans, specifications, data, reports, 41
records, or other information required to be kept or submitted to 42
the director by this chapter or rules adopted under it; 43

(2) Make any false material statement, representation, or 44
certification in any form, notice, or report required by the Title 45
V permit program; 46

(3) Render inaccurate any monitoring device required by a 47
Title V permit. 48

Violation of division (H)(1), (2), or (3) of this section is 49
not also falsification under section 2921.13 of the Revised Code. 50

(I) No person shall knowingly falsify an inspection 51

certificate submitted to another under section 3704.14 or Chapter 52
4503. of Revised Code. Violation of this division is not also 53
falsification under section 2921.13 of the Revised Code. 54

(J) No person shall do either of the following: 55

(1) With regard to the Title V permit program, fail to pay 56
any administrative penalty assessed in accordance with rules 57
adopted under division (S) of section 3704.03 of the Revised Code 58
or any fee assessed under section 3745.11 of the Revised Code; 59

(2) Violate Fail to comply with section 3704.31 of the 60
Revised Code or an agreement entered into under division (A) or 61
(B) of section 3704.35 of the Revised Code or violate any 62
applicable requirement of a Title V permit or any permit 63
condition, except for an emergency as defined in 40 C.F.R. 70.6 64
(g), or filing requirement of the Title V permit program, any duty 65
to allow or carry out inspection, entry, or monitoring activities, 66
or any rule adopted or order issued by the director pursuant to 67
the Title V permit program. 68

(K) On and after the three hundred sixty-sixth day following 69
the administrator's final approval of the Title V permit program, 70
or on and after the three hundred sixty-sixth day following the 71
commencement of operation of a new major source required to comply 72
with section 112(g) or part C or D of Title I of the federal Clean 73
Air Act, whichever is later, no person shall operate any such 74
source that is required to obtain a Title V permit under section 75
3704.036 of the Revised Code or rules adopted under it unless such 76
a permit has been issued authorizing operation of the source or 77
unless a complete and timely application for the issuance, 78
renewal, or modification of a Title V permit for the source has 79
been submitted to the director under that section. 80

Sec. 3704.30. As used in sections 3704.30 to 3704.36 of the 81
Revised Code: 82

(A) "Affected unit" means any air contaminant source that 83
generates electricity in the state and combusts coal in an amount 84
greater than ten per cent of its total heat input on a rolling 85
twelve-month basis. 86

(B) "Alternative emissions limit" means a mercury emissions 87
limit established by the director of environmental protection for 88
an affected unit. 89

(C) "Btu" means British thermal unit of heat input. 90

(D) "Calendar quarter" means the period of January 1 through 91
March 31, April 1 through June 30, July 1 through September 30, or 92
October 1 through December 31. 93

(E) "Fluidized bed combustion unit" means a combustion unit 94
in which fuel is introduced into a layer of solid particles kept 95
in turbulent motion by air that is forced into the layer from 96
below, resulting in a thorough mixing and intimate contact of the 97
fuel and other reactants. 98

(F) "Inlet conditions" means either of the following: 99

(1) The concentration of mercury in the flue gas exiting the 100
combustion source prior to application of any air pollution 101
control device; 102

(2) In the case of a fluidized bed combustion unit, the 103
concentration of mercury input to the combustion source based on 104
representative fuel sampling and analysis as determined by the 105
director. 106

(G) "Mercury" means mercury and mercury compounds in either a 107
gaseous or particulate form. 108

(H) "TBtu" means trillion British thermal units of heat 109
input. 110

Sec. 3704.31. In addition to and notwithstanding any other 111

requirements established in this chapter and rules adopted under 112
it and unless an alternative emissions limit has been established 113
under section 3704.32 of the Revised Code, on and after December 114
15, 2007, the owner or operator of an affected unit or units shall 115
achieve and maintain one of the following, whichever is more 116
readily achievable by the affected unit or units as determined by 117
the owner or operator: 118

(A) A mercury emissions rate equal to or less than six-tenths 119
of one pound of mercury per TBtu; 120

(B) A mercury emissions rate equal to a ninety per cent 121
reduction of mercury from the measured inlet conditions for the 122
affected unit. 123

The director of environmental protection may allow the owner 124
or operator of two or more affected units that are located at the 125
same facility to average the emissions of those affected units for 126
purposes of complying with the mercury emissions rate requirements 127
established in this section. 128

Sec. 3704.32. (A) If the owner or operator of an affected 129
unit properly installs and operates control technology that is 130
designed to achieve the mercury emissions rate requirements 131
established in section 3704.31 of the Revised Code and the 132
technology fails to achieve the required emissions rate, the owner 133
or operator shall notify the director of environmental protection 134
of that failure not later than February 1, 2009. Not later than 135
April 1, 2010, and based on the results of stack tests performed 136
in accordance with section 3704.33 of the Revised Code between 137
February 1, 2009, and April 1, 2010, the director shall establish 138
an alternative emissions limit for the affected unit based on the 139
optimized performance of that properly installed and operated 140
control technology. 141

(B) The owner or operator of an affected unit to which 142

division (A) of this section applies shall be deemed to have 143
complied with section 3704.31 of the Revised Code if, during the 144
period beginning December 15, 2007, and ending on the date of the 145
establishment of an alternative emissions limit for the affected 146
unit, the owner or operator operates and maintains the affected 147
unit in a manner consistent with good air pollution control 148
practices for the minimization of mercury emissions. The director 149
shall provide guidelines for what constitutes good air pollution 150
control practices for the purposes of this division. 151

In determining if the owner or operator of an affected unit 152
is operating and maintaining the affected unit in a manner 153
consistent with good air pollution control practices for the 154
minimization of mercury emissions, the director may review the 155
emissions monitoring results of the affected unit and the 156
operating and maintenance procedures of the owner or operator. 157
Further, the director may inspect the affected unit for that 158
purpose. 159

(C) Upon the establishment of an alternative emissions limit 160
for an affected unit under division (A) of this section, the 161
director shall incorporate the alternative emissions limit into 162
the Title V permit for the affected unit. Thereafter, upon 163
receiving an application for renewal of the Title V permit, the 164
director shall conduct a review of the affected unit's alternative 165
emissions limit and may impose a more stringent alternative 166
emissions limit based on any new data regarding the demonstrated 167
control capabilities of the type of control technology installed 168
and operated at the affected unit. 169

Sec. 3704.33. (A) Except as provided in division (B) of this 170
section, the owner or operator of an affected unit shall perform 171
stack tests to demonstrate compliance with the mercury emissions 172
rate requirements established in section 3704.31 of the Revised 173

Code or with an alternative emissions limit established under 174
section 3704.32 of the Revised Code. Stack tests used to 175
demonstrate compliance shall be conducted each calendar quarter in 176
accordance with the United States environmental protection 177
agency's method 29 for the determination of metal emissions from 178
stationary sources, as set forth in 40 C.F.R. 60, Appendix A, as 179
amended, or any other alternative method approved by the United 180
States environmental protection agency or the director of 181
environmental protection. Data from stack tests submitted for the 182
purpose of demonstrating compliance shall be based on the average 183
of stack tests conducted during the two most recent calendar 184
quarters for an affected unit and while combusting coal or coal 185
blends that are representative of the coal or coal blends 186
combusted at the affected unit during the calendar quarters 187
represented by the stack tests. 188

(B) If the director determines that continuous emission 189
monitors for mercury in flue gases are commercially available and 190
can perform in accordance with standards established by the 191
national institute of technology standards, or with other 192
methodology approved by the United States environmental protection 193
agency, the owner or operator of an affected unit shall properly 194
install and operate the continuous emission monitors and shall not 195
be required to conduct stack testing. When demonstrating 196
compliance with the mercury emissions rate requirements 197
established in section 3704.31 of the Revised Code or with an 198
alternative emissions limit established under section 3704.32 of 199
the Revised Code, as applicable, the owner or operator of an 200
affected unit shall use an average of the continuous emission 201
monitor data recorded at the affected unit during the most recent 202
calendar quarter. 203

(C) The owner or operator of an affected unit, for each 204
calendar quarter, shall report to the director the results of any 205

stack test or the average of the continuous emission monitor data, 206
as applicable. The reports shall be submitted on forms that shall 207
be prescribed by the director. 208

Sec. 3704.34. (A) Not later than July 1, 2012, the director 209
of environmental protection shall conduct a review of the mercury 210
emission limits that are applicable to all affected units in the 211
state. The results of the review shall be made available to the 212
public upon request. 213

(B) On or after December 15, 2012, the director may adopt 214
rules in accordance with Chapter 119. of the Revised Code imposing 215
mercury emission limits that are more stringent than the emissions 216
rate requirements established in section 3704.31 of the Revised 217
Code or the alternative emissions limits established under section 218
3704.32 of the Revised Code. 219

Sec. 3704.35. (A) Notwithstanding the mercury emissions rate 220
requirements established in section 3704.31 of the Revised Code, 221
the director of environmental protection may issue an order 222
extending the deadline for complying with those requirements to 223
December 15, 2012, with respect to an affected unit if the owner 224
or operator of the affected unit enters into an agreement with the 225
director to install and operate air pollution control systems to 226
control all of the following: 227

(1) The emissions of nitrogen oxides to less than one-tenth 228
of one pound per one million Btus for dry bottom boilers and 229
thirteen one-hundredths of one pound per one million Btus for wet 230
bottom boilers; 231

(2) The emissions of sulfur dioxide to less than fifteen 232
one-hundredths of one pound per one million Btus; 233

(3) The emissions of sulfur dioxide to less than three 234
one-hundredths of one pound per one million Btus. 235

(B) Notwithstanding the mercury emissions rate reductions 236
established in section 3704.31 of the Revised Code, the director 237
may issue an order exempting an affected unit from those 238
requirements if the owner or operator of the affected unit enters 239
into an agreement with the director by December 15, 2007, to close 240
the facility by December 15, 2012. 241

Sec. 3704.36. The director of environmental protection may 242
adopt rules in accordance with Chapter 119. of the Revised Code 243
establishing procedures and requirements that are necessary for 244
the administration of sections 3704.30 to 3704.35 of the Revised 245
Code. 246

Section 2. That existing section 3704.05 of the Revised Code 247
is hereby repealed. 248