

**TITLE 20 ENVIRONMENTAL PROTECTION**  
**CHAPTER 2 AIR QUALITY (STATEWIDE)**  
**PART 85 MERCURY EMISSION STANDARDS AND COMPLIANCE SCHEDULES FOR**  
**ELECTRIC GENERATING UNITS**

**20.2.85.1 ISSUING AGENCY.** Environmental improvement board.  
[20.2.85.1 NMAC - N, 0X/XX/07]

**20.2.85.2 SCOPE.** All persons who currently operate or intend to construct or modify a coal-fired electric generating unit within the jurisdiction of the environmental improvement board.  
[20.2.85.2 NMAC - N, 0X/XX/07]

**20.2.85.3 STATUTORY AUTHORITY.** Environmental Improvement Act, NMSA 1978, section 74-1-8(A)(4), and Air Quality Control Act, NMSA 1978, sections 74-2-1 et seq., including specifically, section 74-2-5 (C)(2).  
[20.2.85.3 NMAC - N, 0X/XX/07]

**20.2.85.4 DURATION.** Permanent.  
[20.2.85.4 NMAC - N, 0X/XX/07]

**20.2.85.5 EFFECTIVE DATE.** 0X/XX/07 except where a later date is cited at the end of a section or paragraph.  
[20.2.85.5 NMAC - N, 0X/XX/07]

**20.2.85.6 OBJECTIVE.** The objective of this part is to establish mercury emission limitations and compliance schedules for coal-fired electric generating units subject to this part.  
[20.2.85.6 NMAC - N, 0X/XX/07]

**20.2.85.7 DEFINITIONS.** In addition to the terms defined in 20.2.2 NMAC (Definitions), as used in this part, the following definitions apply.

**A. "Administrator"** means the administrator of the United States environmental protection agency or the administrator's duly authorized representative.

**B. "Alternate Hg designated representative"** means, for a facility and each electric generating unit at the facility, the natural person who is authorized by the owners and operators of the facility and all such units at the facility, to act on behalf of the Hg designated representative in matters of this part.

**C. "Automated data acquisition and handling system" or "DAHS"** means that component of the continuous emission monitoring system (CEMS), or other emissions monitoring system approved for use under 20.2.85.111 NMAC through 20.2.85.117 NMAC, 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 20.2.85.111 NMAC through 20.2.85.117 NMAC.

**D. "Boiler"** means an enclosed fossil- or other fuel-fired combustion device used to produce heat and to transfer heat to recirculating water, steam, or other medium.

**E. "Bottoming-cycle cogeneration unit"** means a cogeneration unit in which the energy input to the unit is first used to produce useful thermal energy and at least some of the reject heat from the useful thermal energy application or process is then used for electricity production.

**F. "Coal"** means any solid fuel classified as anthracite, bituminous, subbituminous, or lignite by the American Society of Testing and Materials (ASTM) Standard Specification for Classification of Coals by Rank D388-77, 90, 91, 95, 98a, or 99 (Reapproved 2004).

**G. "Coal-derived fuel"** means any fuel (whether in a solid, liquid, or gaseous state) produced by the mechanical, thermal, or chemical processing of coal.

**H. "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.

**I. "Cogeneration unit"** means a stationary, coal-fired boiler or stationary, coal-fired combustion turbine with the following characteristics:

- (1) having equipment used to produce electricity and useful thermal energy for industrial, commercial, heating, or cooling purposes through the sequential use of energy; and
- (2) producing during the 12-month period starting on the date the unit first produces electricity and during any calendar year after which the unit first produces electricity:
  - (a) for a topping-cycle cogeneration unit,
    - (i) useful thermal energy not less than 5 percent of total energy output; and
    - (ii) useful power that, when added to one-half of useful thermal energy produced, is not less than 42.5 percent of total energy input, if useful thermal energy produced is 15 percent or more of total energy output, or not less than 45 percent of total energy input, if useful thermal energy produced is less than 15 percent of total energy output; and
  - (b) for a bottoming-cycle cogeneration unit, useful power not less than 45 percent of total energy input.

**J. "Combustion turbine" means:**

- (1) 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
- (2) if the enclosed device under paragraph 1 of this subsection is combined cycle, any associated heat recovery steam generator and steam turbine.

**K. "Commence commercial operation",** with regard to a unit serving a generator, means the following.

(1) To have begun to produce steam, gas, or other heated medium used to generate electricity for sale or use, including test generation.

(a) For a unit that is subject to this part on the date the unit commences commercial operation as defined in paragraph 1 of this subsection and that subsequently undergoes a physical change (other than replacement of the unit by a unit at the same facility), such date shall remain the unit's date of commencement of commercial operation.

(b) For a unit that is subject to this part on the date the unit commences commercial operation as defined in paragraph 1 of this subsection and that is subsequently replaced by a unit at the same facility (e.g., repowered), the replacement unit shall be treated as a separate unit with a separate date for commencement of commercial operation as defined in paragraph 1 or 2 of this subsection as appropriate.

(2) For units that were not subject to this part as of the effective date of this part, a unit's date for commencement of commercial operation shall be the date on which the unit becomes subject to this part.

(a) For a unit with a date for commencement of commercial operation as defined in paragraph 2 of this subsection and that subsequently undergoes a physical change (other than replacement of the unit by a unit at the same facility), such date shall remain the unit's date of commencement of commercial operation.

(b) For a unit with a date for commencement of commercial operation as defined in paragraph 2 of this subsection and that is subsequently replaced by a unit at the same facility (e.g., repowered), the replacement unit shall be treated as a separate unit with a separate date for commencement of commercial operation as defined in paragraph 1 or 2 of this subsection as appropriate.

**L. "Commence operation" means:**

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

(2) for a unit that undergoes a physical change (other than replacement of the unit by a unit at the same facility) after the date the unit commences operation as defined in paragraph 1 of this subsection, such date shall remain the unit's date of commencement of operation; and

(3) for a unit that is subsequently replaced by a unit at the same facility (e.g., repowered) after the date the unit commences operation as defined in paragraph 1 of this subsection, the replacement unit shall be treated as a separate unit with a separate date for commencement of operation as defined in paragraph 1 or 2 of this subsection as appropriate.

**M. "Common stack" means** a single flue through which emissions from 2 or more units are exhausted.

**N. "Continuous emission monitoring system" or "CEMS" means** the equipment required under this part to sample, analyze, measure, and provide, by means of readings recorded at least once every 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 Part 75. The following systems are the principal types of CEMS required under this part:

(1) a flow monitoring system, consisting of a stack flow rate monitor and an automated data acquisition and handling system and providing a permanent, continuous record of stack gas volumetric flow rate, in units of standard cubic feet per hour (scfh);

(2) a mercury concentration monitoring system, consisting of a mercury pollutant concentration monitor and an automated data acquisition and handling system and providing a permanent, continuous record of mercury emissions in units of micrograms per dry standard cubic meter (ugm/dscm);

(3) a moisture monitoring system, as defined in 40 CFR 75.11(b)(2) and providing a permanent, continuous record of the stack gas moisture content, in percent water;

(4) a carbon dioxide monitoring system, consisting of a carbon dioxide concentration monitor (or an oxygen monitor plus suitable mathematical equations from which the carbon dioxide concentration is derived) and an automated data acquisition and handling system and providing a permanent, continuous record of carbon dioxide emissions, in percent carbon dioxide; and

(5) an oxygen monitoring system, consisting of an oxygen concentration monitor and an automated data acquisition and handling system and providing a permanent, continuous record of oxygen, in percent oxygen.

**O. "Department"** means the New Mexico environment department.

**P. "Electric generating unit"** means a stationary coal-fired boiler or a stationary coal-fired combustion turbine that is subject to this part pursuant to 20.2.85.100 NMAC.

**Q. "Emissions"** means air pollutants exhausted from a unit or facility into the atmosphere, as measured, recorded and reported to the administrator by the Hg designated representative.

**R. "Escalante generating station"** means the existing single coal-fired pressurized unit that generates approximately 250 gross megawatts of electricity and is identified as plant 87 by the United States department of energy, energy information administration.

**S. "Facility"** means a stationary source that includes one or more electric generating units.

**T. "Generator"** means a device that produces electricity.

**U. "Gross thermal energy"** means, with regard to a cogeneration unit, useful thermal energy output plus, where such output is made available for an industrial or commercial process, any heat contained in condensate return or makeup water.

**V. "Maximum design heat input"** means, starting from the initial installation of a unit, the maximum amount of fuel per hour (in British thermal units per hour) that a unit is capable of combusting on a steady-state basis as specified by the manufacturer of the unit, or, starting from the completion of any subsequent physical change in the unit resulting in a decrease in the maximum amount of fuel per hour (in British thermal units per hour) that a unit is capable of combusting on a steady-state basis, such decreased maximum amount as specified by the person conducting the physical change.

**W. "Heat input"** means, with regard to a specified period of time, the product (in million British thermal units per time) of the gross calorific value of the fuel (in British thermal units per pound) divided by 1,000,000 British thermal units per million British thermal units and multiplied by the fuel feed rate into a combustion device (in pounds of fuel per time), as measured, recorded, and reported to the department by the Hg designated representative and determined by the department in accordance with 20.2.85.111 NMAC through 20.2.85.117 NMAC and excluding the heat derived from preheated combustion air, recirculated flue gases, or exhaust from other sources.

**X. "Heat input rate"** means the amount of heat input (in million British thermal units) 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) divided by the unit operating time (in hours) during which the unit combusts the fuel.

**Y. "Hg designated representative"** means, for a facility and each electric generating unit at the facility, the natural person who is authorized by the owners and operators of the facility and all such units at the facility, to represent and legally bind each owner and operator in matters of this part.

**Z. "Life-of-the-unit, firm power contractual agreement"** 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:

(1) for the life of the unit;

(2) for a cumulative term of no less than 30 years, including contracts that permit an election for early termination; or

(3) for a period of no less than 25 years or 70 percent 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.

**AA. "Mercury emission limitation" or "limitation"** means a maximum amount of mercury emissions that is allowed to be exhausted from a facility and electric generating units at such facility pursuant to 20.2.85.101 NMAC.

**BB. "Monitoring system"** means any monitoring system that meets the requirements of 20.2.85.111 NMAC through 20.2.85.117 NMAC, including a continuous emissions monitoring system, an alternative monitoring system, or an excepted monitoring system under 40 CFR Part 75.

**CC. "Nameplate capacity"** means, starting from the initial installation of a generator, the maximum electric generating output, in megawatts, that the generator is capable of producing on a steady-state basis and during continuous operation (when not restricted by seasonal or other derates) 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 electric generating output, in megawatts, that the generator is capable of producing on a steady-state basis and during continuous operation (when not restricted by seasonal or other derates), such increased maximum amount as specified by the person conducting the physical change.

**DD. "New facility"** means a facility that includes one or more electric generating units and commences operation on or after January 1, 2004.

**EE. "New unit"** means an electric generating unit commencing operation on or after January 1, 2004.

**FF. "Operator"** means any person who operates, controls, or supervises an electric generating unit or a facility that includes an electric generating unit and shall include, but not be limited to, any holding company, utility system, or plant manager of such electric generating unit or facility.

**GG. "Ounce"** means 2.84 times 10 to the seventh power micrograms. For purposes of this part, fractions of an ounce shall be rounded up to the next larger whole ounce.

**HH. "Owner"** means any of the following persons:

- (1) any holder of any portion of the legal or equitable title in an electric generating unit;
- (2) any holder of a leasehold interest in an electric generating unit; or
- (3) any purchaser of power from an electric generating unit under a life-of-the-unit, firm power contractual arrangement; provided that, unless expressly provided for in a leasehold agreement, owner 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 electric generating unit.

**II. "Potential electric output capacity"** means 33 percent of a unit's maximum design heat input, divided by 3,413 British thermal units per kilowatt-hour, divided by 1,000 kilowatt-hour per megawatt-hour, and multiplied by 8,760 hours per year.

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

**KK. "Repowered"** means, with regard to a unit, replacement of a coal-fired boiler with one of the following coal-fired technologies at the same source as the coal-fired boiler:

- (1) atmospheric or pressurized fluidized bed combustion;
- (2) integrated gasification combined cycle;
- (3) magnetohydrodynamics;
- (4) direct and indirect coal-fired turbines;
- (5) integrated gasification fuel cells; or
- (6) as determined by the administrator, a derivative of one or more of the technologies under paragraphs 1 through 5 of this subsection and any other coal-fired technology capable of controlling multiple combustion emissions simultaneously with improved boiler or generation efficiency and with significantly greater waste reduction relative to the performance of technology in widespread commercial use as of January 1, 2005.

**LL. "Sequential use of energy"** means:

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

**MM. "San Juan generating station"** means the existing four coal-fired pressurized units that generate approximately 1,800 gross megawatts of electricity and is identified as plant 2451 by the United States department of energy, energy information administration.

**NN. "State"** means:

- (1) for purposes of referring to a governing entity, the state of New Mexico; or
- (2) for purposes of referring to a geographic area, all geographic areas within the jurisdiction of the Environmental Improvement Board.

**OO. "Stationary source"** means any building, structure, facility, or installation that emits or may emit an air pollutant.

**PP. "Submit or serve"** means to send or transmit a document, information, or correspondence to the person specified in accordance with the applicable regulation in person, by United States postal service, or 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.

**QQ. "Topping-cycle cogeneration unit"** means a cogeneration unit in which the energy input to the unit is first used to produce useful power, including electricity, and at least some of the reject heat from the electricity production is then used to provide useful thermal energy.

**RR. "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.

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

**TT. "Unit"** means a stationary coal-fired boiler or a stationary coal-fired combustion turbine.

**UU. "Unit operating day"** means a calendar day in which a unit combusts any fuel.

**VV. "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 processing or treatment of fuel combusted at the unit and any on-site emission controls).

**WW. "Useful thermal energy"** means, with regard to a cogeneration unit, thermal energy that is:

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

(2) used in a heat application (e.g., space heating or domestic hot water heating); or

(3) used in a space cooling application (i.e., thermal energy used by an absorption chiller).

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

[20.2.85.7 NMAC - N, 0X/XX/07]

**20.2.85.8 DOCUMENTS.** Documents incorporated and cited in this part may be viewed at the New Mexico environment department, air quality bureau, 2048 Galisteo Street, Santa Fe, NM 87505.

[20.2.85.8 NMAC - N, 0X/XX/07]

**20.2.85.9 SEVERABILITY.** If any provision of this part, or the application of such provision to any person or circumstance, is held invalid, the remainder of this part, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

[20.2.85.9 NMAC - N, 0X/XX/07]

**20.2.85.10 CONSTRUCTION.** This part shall be liberally construed to carry out its purpose.

[20.2.85.10 NMAC - N, 0X/XX/07]

**20.2.85.11 SAVINGS CLAUSE.** Repeal or supersession of prior versions of this part shall not affect any administrative or judicial action initiated under those prior versions.

[20.2.85.11 NMAC - N, 0X/XX/07]

**20.2.85.12 COMPLIANCE WITH OTHER REGULATIONS.** Compliance with this part does not relieve a person from the responsibility to comply with any other applicable federal, state, or local regulations.

[20.2.85.12 NMAC - N, 0X/XX/07]

**20.2.85.13 LIMITATION OF DEFENSE.** The existence of a valid permit under this part shall not constitute a defense to a violation of any section of this part, except the requirement for obtaining a permit.

[20.2.85.13 NMAC - N, 0X/XX/07]

**20.2.85.14 to 20.2.85.99 [RESERVED]**

**20.2.85.100 APPLICABILITY.**

**A.** The following units, and any facility that includes one or more such units, shall be subject to the requirements of this part.

(1) Except as provided in subsections B and C of this section, a stationary, coal-fired boiler or stationary, coal-fired combustion turbine in the state serving 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 25 megawatts electric producing electricity for sale.

(2) If a stationary boiler or stationary combustion turbine that, under paragraph (1) of this subsection, is not an electric generating unit begins to combust coal or coal-derived fuel or to serve a generator with nameplate capacity of more than 25 megawatts electric producing electricity for sale, the unit shall become an electric generating unit as provided in paragraph 1 of this subsection on the first date on which it both combusts coal or coal-derived fuel and serves such generator.

**B.** A unit that meets the requirements set forth in paragraph 1 of this subsection shall not be an electric generating unit.

(1) A unit that is an electric generating unit under paragraph 1 or 2 of subsection A of this section:

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

(b) not serving 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 25 megawatts electric supplying in any calendar year more than one-third of the unit's potential electric output capacity or 219,000 megawatt-hours, whichever is greater, to any utility power distribution system for sale.

(2) If a unit qualifies as a cogeneration unit during the 12-month period starting on the date the unit first produces electricity and meets the requirements of paragraph 1 of this subsection for at least one calendar year, but subsequently no longer meets all such requirements, the unit shall become an electric generating 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 subparagraph b of paragraph 1 of this subsection.

**C.** A "solid waste incineration unit" as defined in Clean Air Act Section 129(g)(1) combusting "municipal waste" as defined in Clean Air Act Section 129(g)(5) shall not be an electric generating unit if it is subject to one of the following rules:

(1) 20.2.77 NMAC, which incorporates by reference the following:

(a) 40 CFR 60 Subpart Cb, "Emissions Guidelines and Compliance Times for Large Municipal Waste Combustors That Are Constructed On or Before September 20, 1994";

(b) 40 CFR 60 Subpart Eb, "Standards of Performance for Large Municipal Waste Combustors for Which Construction is Commenced After September 20, 1994 or for Which Modification or Reconstruction is Commenced After June 19, 1996";

(c) 40 CFR 60 Subpart AAAA, "Standards of Performance for Small Municipal Waste Combustors for Which Construction is Commenced After August 30, 1999 or for Which Modification or Reconstruction is Commenced After June 6, 2001";

(d) 40 CFR 60 Subpart BBBB, "Emission Guidelines and Compliance Times for Small Municipal Waste Combustion Units Constructed On or Before August 30, 1999"; or

(2) 40 CFR 62 Subpart FFF, "Federal Plan Requirements for Large Municipal Waste Combustors Constructed On or Before September 20, 1994"; or

(3) 40 CFR 62 Subpart JJJ, "Federal Plan Requirements for Small Municipal Waste Combustion Units Constructed On or Before August 30, 1999".

[20.2.85.100 NMAC - N, 0X/XX/07]

#### **20.2.85.101 MERCURY EMISSION LIMITATIONS.**

**A.** The following are the amounts of the state's annual allowable mercury emissions from electric generating units, in ounces of mercury per calendar year.

(1) For calendar years 2010 through 2017, 9,568 ounces per year; and

(2) For calendar year 2018 and each calendar year thereafter, 3,776 ounces per year.

**B.** Beginning in calendar year 2010, the state's annual allowable mercury emissions from electric generating units shall apply as the following facility-wide mercury emission limitations.

(1) For the calendar years 2010 through 2017:

(a) San Juan generating station shall emit no more than 7,808 ounces of mercury per calendar year; and

(b) escalante generating station shall emit no more than 1,280 ounces of mercury per calendar year; and

(c) new facilities and any other facilities except San Juan and escalante generating stations, in aggregate, shall emit no more than 480 ounces of mercury per calendar year.

(2) For the calendar year 2018 and each calendar year thereafter:

(a) San Juan generating station shall emit no more than 3,323 ounces of mercury per calendar year; and

(b) escalante generating station shall emit no more than 340 ounces of mercury per calendar year; and

(c) new facilities and any other facilities except San Juan and escalante generating stations, in aggregate, shall emit no more than 113 ounces of mercury per calendar year.

[20.2.85.101 NMAC - N, 0X/XX/07]

**20.2.85.102 AUTHORITY AND RESPONSIBILITIES OF Hg DESIGNATED REPRESENTATIVES.**

**A.** Except as provided under 20.2.85.103 NMAC, each facility, including all electric generating units at the facility, shall have one and only one Hg designated representative, with regard to all matters under this part concerning the facility or any electric generating unit at the facility.

**B.** The Hg designated representative of the facility shall be selected by an agreement binding on the owners and operators of the facility and all electric generating units at the facility and shall act in accordance with the certification statement in 20.2.85.105 NMAC.

**C.** Upon receipt by the administrator of a complete certificate of representation under 20.2.85.105 NMAC, the Hg 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 facility represented and each electric generating unit at the facility in all matters pertaining to this part, notwithstanding any agreement between the Hg designated representative and such owners and operators. The owners and operators shall be bound by any decision or order issued to the Hg designated representative by the department, the administrator, or a court regarding the facility or electric generating unit.

**D.** No permit will be issued pursuant to 20.2.85.108 NMAC and, no emissions data reports will be accepted for a electric generating unit at a facility, until the administrator has received a complete certificate of representation under 20.2.85.105 NMAC for a Hg designated representative of the facility and the electric generating units at the facility.

**E.** Each submission under this part shall be submitted, signed, and certified by the Hg designated representative for each facility on behalf of which the submission is made. Each such submission shall include the following certification statement by the Hg designated representative: "I am authorized to make this submission on behalf of the owners and operators of the facility or electric generating 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."

**F.** The department and the administrator will accept or act on a submission made on behalf of owner or operators of a facility or an electric generating unit only if the submission has been made, signed, and certified in accordance with subsection E of this section.

[20.2.85.102 NMAC - N, 0X/XX/07]

**20.2.85.103 ALTERNATE Hg DESIGNATED REPRESENTATIVE.**

**A.** A certificate of representation under 20.2.85.105 NMAC may designate one and only one alternate Hg designated representative, who may act on behalf of the Hg designated representative. The agreement by which the alternate Hg designated representative is selected shall include a procedure for authorizing the alternate Hg designated representative to act in lieu of the Hg designated representative.

**B.** Upon receipt by the administrator of a complete certificate of representation under 20.2.85.105 NMAC, any representation, action, inaction, or submission by the alternate Hg designated representative shall be deemed to be a representation, action, inaction, or submission by the Hg designated representative.

**C.** Except in this section and 20.2.85.7 NMAC, subsections A and D of 20.2.85.102 NMAC, 20.2.85.104 NMAC, 20.2.85.105 NMAC, and 20.2.85.114 NMAC, whenever the term "Hg designated representative" is used in this part, the term shall be construed to include the Hg designated representative or any alternate Hg designated representative.

**20.2.85.104 CHANGING Hg DESIGNATED REPRESENTATIVE AND ALTERNATE Hg DESIGNATED REPRESENTATIVE; CHANGES IN OWNERS AND OPERATORS.**

**A.** The Hg designated representative may be changed at any time upon receipt by the administrator of a superseding complete certificate of representation under 20.2.85.105 NMAC. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous Hg designated representative before the time and date when the administrator receives the superseding certificate of representation shall be binding on the new Hg designated representative and the owners and operators of the facility and the electric generating units at the facility.

**B.** The alternate Hg designated representative may be changed at any time upon receipt by the administrator of a superseding complete certificate of representation under 20.2.85.105 NMAC. Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous alternate Hg designated representative before the time and date when the administrator receives the superseding certificate of representation shall be binding on the new alternate Hg designated representative and the owners and operators of the facility and the electric generating units at the source.

**C.** In the event a new owner or operator of a facility or an electric generating unit is not included in the list of owners and operators in the certificate of representation under 20.2.85.105 NMAC, such new 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 Hg designated representative and any alternate Hg designated representative of the facility or electric generating unit, and the decisions and orders of the department, the administrator, or a court, as if the new owner or operator were included in such list.

**D.** Within 30 days following any change in the owners and operators of a facility or a electric generating unit, including the addition of a new owner or operator, the Hg designated representative or any alternate Hg designated representative shall submit a revision to the certificate of representation under 20.2.85.105 NMAC amending the list of owners and operators to include the change.

[20.2.85.104 NMAC - N, 0X/XX/07]

**20.2.85.105 CERTIFICATE OF REPRESENTATION.**

**A.** A complete certificate of representation for a Hg designated representative or an alternate Hg designated representative shall include the following elements in a format prescribed by the administrator.

(1) Identification of the facility, and each electric generating unit at the source, for which the certificate of representation is submitted.

(2) The name, address, e-mail address (if any), telephone number, and facsimile transmission number (if any) of the Hg designated representative and any alternate Hg designated representative.

(3) A list of the owners and operators of the facility and of each electric generating unit at the facility.

(4) The following certification statements by the Hg designated representative and any alternate Hg designated representative.

(a) "I certify that I was selected as the Hg designated representative or alternate Hg designated representative, as applicable, by an agreement binding on the owners and operators of the facility and each electric generating unit at the facility."

(b) "I certify that I have all the necessary authority to carry out my duties and responsibilities under 20.2.85 NMAC on behalf of the owners and operators of the facility and of each electric generating unit at the source and that each such owner and operator shall be fully bound by my representations, actions, inactions, or submissions."

(c) "I certify that the owners and operators of the source and of each electric generating unit at the source shall be bound by any order issued to me by the administrator, the department, or a court regarding the source or unit."

(d) "Where there are multiple holders of a legal or equitable title to, or a leasehold interest in, a electric generating unit, or where a customer purchases power from a electric generating 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 'Hg designated representative' or 'alternate Hg designated representative,' as applicable, and of the agreement by which I was selected to each owner and operator of the facility and of each electric generating unit at the facility."

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

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

[20.2.85.105 NMAC - N, 0X/XX/07]

**20.2.85.106 OBJECTIONS CONCERNING Hg DESIGNATED REPRESENTATIVE.**

**A.** Once a complete certificate of representation under 20.2.85.105 NMAC has been submitted and received, the department and the administrator will rely on the certificate of representation unless and until a superseding complete certificate of representation under 20.2.85.105 NMAC is received by the administrator.

**B.** Except as provided in section A or B of 20.2.85.104 NMAC, no objection or other communication submitted to the department or the administrator concerning the authorization, or any representation, action, inaction, or submission, of the Hg designated representative shall affect any representation, action, inaction, or submission of the Hg designated representative or the finality of any decision or order by the department or the administrator under this part.

**C.** Neither the department nor the administrator will adjudicate any private legal dispute concerning the authorization or any representation, action, inaction, or submission of any Hg designated representative.

[20.2.85.106 NMAC - N, 0X/XX/07]

**20.2.85.107 LIABILITY.**

**A.** Any provision of this part that applies to a facility or the Hg designated representative of a facility shall also apply to the owners and operators of such facility and the electric generating units at the facility.

**B.** Any provision of this part that applies to an electric generating unit or the Hg designated representative of an electric generating unit shall also apply to the owners and operators of such electric generating unit.

[20.2.85.107 NMAC - N, 0X/XX/07]

**20.2.85.108 PERMIT REQUIREMENTS.**

**A.** By January 1, 2010, each facility with one or more electric generating units and subject to this part shall obtain facility-wide mercury emission limitations as part of the facility's operating permit issued by the department under 20.2.70 NMAC. Facility-wide mercury emission limitations shall not exceed the facility-wide mercury emission limitations under 20.2.85.101 NMAC.

**B.** Prior to a new electric generating unit commencing operation at a facility already subject to this part, the Hg designated representative shall obtain for the facility a modified operating permit under 20.2.70 NMAC, including a facility-wide mercury emission limitation sufficient to permit operation of the new electric generating unit. Facility-wide mercury emission limitations shall not exceed the facility-wide mercury emission limitations under 20.2.85.101 NMAC.

**C.** Prior to commencement of operation of a new facility and any other facility except San Juan and escalante generating stations, the Hg designated representative shall obtain for the new facility a construction permit under 20.2.72 NMAC and an operating permit under 20.2.70 NMAC. Each permit shall include a mercury emission limitation for units at the facility. As part of the permit application under 20.2.72 NMAC, the Hg designated representative shall request for the facility a facility-wide mercury emission limitation, in ounces of mercury per calendar year, not to exceed the unrequested and available applicable aggregate new facility mercury emission limitation in accordance with 20.2.85.101 NMAC. In no case shall mercury emission limitations requested for new facilities, in aggregate, exceed the applicable mercury emission limitation for new facilities in 20.2.85.101 NMAC. The department shall subtract a new facility's facility-wide mercury emission limitation as permitted from the available applicable aggregate new facility mercury emission limitation under 20.2.85.101 NMAC. The department shall keep permanent records of the available and permitted new facility mercury emission limitations in each calendar year.

**D.** Each application pursuant to this section for a construction permit under 20.2.72 NMAC and a new or modified operating permit under 20.2.70 NMAC shall include the following information:

(1) identification of the facility and each electric generating unit at the facility; and

(2) identification of the mercury emission limitations for the calendar years 2010 through 2017 and for the calendar year 2018 and each calendar year thereafter, as applicable and in accordance with 20.2.85.101 NMAC.

[20.2.85.103 NMAC - N, 0X/XX/07]

**20.2.85.109 PROHIBITIONS ON MERCURY ALLOWANCES AND MERCURY ALLOCATIONS.**

Mercury emission limitations described in this part shall not qualify as mercury allowances or mercury allocations under any allowance system approved under 40 CFR 60.24(h)(6).

[20.2.85.104 NMAC - N, 0X/XX/07]

**20.2.85.110 COMPLIANCE WITH 40 CFR PART 75.** Facilities subject to this part shall comply with all requirements of 40 CFR Part 75 concerning determinations of mercury mass emissions.

[20.2.85.105 NMAC - N, 0X/XX/07]

**20.2.85.111 GENERAL REQUIREMENTS FOR MONITORING AND REPORTING.** The owner and operator, and to the extent applicable, the Hg designated representative, of an electric generating unit subject to this part shall comply with the monitoring, recordkeeping, and reporting requirements as provided in this part and 40 CFR 75 Subpart I. For purposes of complying with such requirements, the definitions in 20.2.85.7 NMAC shall apply, and the terms "affected unit" and "continuous emission monitoring system" (or "CEMS") contained in 40 CFR 75 Subpart I shall be deemed to refer to the terms "electric generating unit" and "continuous emission monitoring system" (or "CEMS") respectively, as defined in 20.2.85.7 NMAC. The owner or operator of a unit that is not an electric generating unit as defined in this part but that is monitored under 40 CFR 75.82(b)(2)(i) shall comply with the same monitoring, recordkeeping, and reporting requirements as an electric generating unit.

**A.** Requirements for installation, certification, and data accounting. The owner or operator of each electric generating unit shall:

(1) install all monitoring systems required under this part for monitoring mercury mass emissions and individual unit heat input (including all systems required to monitor mercury concentration, stack gas moisture content, stack gas flow rate, and carbon dioxide or oxygen concentration, as applicable) in accordance with 40 CFR 75.81 and 40 CFR 75.82;

(2) successfully complete all certification tests required under this part and meet all other requirements of this part and 40 CFR 75 Subpart I applicable to the monitoring systems under paragraph 1 of this subsection;

(3) record and report the data from the monitoring systems under paragraph 1 of this subsection in accordance with 40 CFR 75.84; and

(4) quality-assure the data from the monitoring systems under paragraph 1 of this subsection in accordance with 40 CFR 75.80(e).

**B.** Compliance deadlines. The owner or operator shall meet the monitoring system certification and other requirements of this section on or before the following dates.

(1) For the owner or operator of an electric generating unit that commences commercial operation before July 1, 2008, by January 1, 2009.

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

(a) January 1, 2009; or

(b) 90 unit operating days or 180 calendar days, whichever occurs first, after the date on which the unit commences commercial operation.

(3) For the owner or operator of an electric generating 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 paragraph 1 or 2 of this subsection, by 90 unit operating days or 180 calendar days, whichever occurs first, 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.

**C.** Reporting data.

(1) Except as provided in paragraph 2 of this subsection, the owner or operator of an electric generating unit that does not meet the applicable compliance date set forth in subsection B of this section for any monitoring system under paragraph 1 of subsection A of this section 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).

(2) The owner or operator of an electric generating facility that does not meet the applicable compliance date set forth in paragraph 3 of subsection B of this section for any monitoring system under paragraph 1 of subsection A of this section shall, for each such monitoring system, determine, record, and report substitute data using the applicable missing data procedures in 40 CFR 75 Subpart D, in lieu of the maximum potential (or, as appropriate, minimum potential) values, for a parameter if the owner or operator demonstrates that there is continuity between the data streams for that parameter before and after the construction or installation under paragraph 3 of subsection B of this section.

**D. Prohibitions.**

(1) No owner or operator of an electric generating facility shall use any alternative monitoring system, alternative reference method, or any other alternative to any requirement of this part without having obtained prior written approval in accordance with 20.2.85.116 NMAC.

(2) No owner or operator of an electric generating facility 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 part and 40 CFR 75 Subpart I.

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

(4) No owner or operator of an electric generating unit shall retire or permanently discontinue use of the continuous emission monitoring system, any component thereof, or any other approved monitoring system under this part and 40 CFR Part 75, except under any one of the following circumstances:

(a) the owner or operator is monitoring emissions from the electric generating unit with another certified monitoring system approved, in accordance with the applicable provisions of this part and 40 CFR 75 Subpart I, by the state for use at that unit that provides emission data for the same pollutant or parameter as the retired or discontinued monitoring system; or

(b) the Hg 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 20.2.85.112 NMAC.

[20.2.85.106 NMAC - N, 0X/XX/07]

**20.2.85.112 INITIAL CERTIFICATION AND RECERTIFICATION PROCEDURES.**

**A.** The owner or operator of an electric generating unit shall be exempt from the initial certification requirements of this section for a monitoring system under paragraph 1 of subsection A of 20.2.85.111 NMAC if the following conditions are met.

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

(2) For continuous emission monitoring systems, 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 paragraph 1 of subsection A of this section.

(3) For sorbent trap monitoring systems, the applicable quality-assurance and quality-control requirements of 40 CFR 75.15, 40 CFR 75 Appendix A Section 6.5.7, 40 CFR 75 Appendix B Sections 1.5 and 2.3, and 40 CFR 75 Appendix K are fully met for the certified monitoring system.

**B.** The recertification provisions of this section shall apply to a monitoring system which is exempt from initial certification requirements under subsection A of this section.

**C.** Except as provided in subsection A of this section, the owner or operator of an electric generating facility shall comply with the following initial certification and recertification procedures for a continuous monitoring system (e.g., a continuous emission monitoring system and sorbent trap monitoring system under 40 CFR 75.15). The owner or operator of an electric generating facility that qualifies to use the mercury low mass emissions excepted monitoring methodology under 40 CFR 75.81(b) that also qualifies to use an alternative monitoring system under 40 CFR 75 Subpart E shall comply with the procedures in subsections D or E of this section respectively.

(1) Requirements for initial certification. The owner or operator shall ensure that each monitoring system under paragraph 1 of subsection A of 20.2.85.104 NMAC (including the automated data acquisition and handling system) successfully completes all of the initial certification testing required under 40 CFR 75.20 by the applicable deadline in subsection B of 20.2.85.111 NMAC. In addition, whenever the owner or operator installs a

monitoring system to meet the requirements of this part and 40 CFR Part 75 in a location where no such monitoring system was previously installed, initial certification in accordance with 40 CFR 75.20 is required.

**(2) Requirements for recertification.**

**(a)** Whenever the owner or operator makes a replacement, modification, or change in any certified continuous emission monitoring system under subsection 1 of section A of 20.2.85.111 NMAC or sorbent trap monitoring system under 40 CFR 75.15 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 appendix B, the owner or operator shall recertify the monitoring system in accordance with 40 CFR 75.20(b).

**(b)** 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 continuous emission monitoring system, and each 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). Examples of changes to a continuous emission monitoring system that require recertification include replacement of the analyzer, complete replacement of an existing continuous emission monitoring system, or change in location or orientation of the sampling probe or site.

**(3) Approval process for initial certification and recertification.** Subparagraphs a through d of this paragraph apply to both initial certification and recertification of a continuous monitoring system under paragraph 1 of subsection A of 20.2.85.104 NMAC. For recertifications, apply the word "recertification" instead of the words "certification" and "initial certification" and apply the word "recertified" instead of the word "certified," and follow the procedures in 40 CFR 75.20(b)(5) in lieu of the procedures in subparagraph d of this paragraph.

**(a) Notification of certification.** The Hg designated representative of an electric generating unit shall submit to the department, the administrator's region 6 office, and the administrator written notice of the dates of certification testing, in accordance with 20.2.85.114 NMAC.

**(b) Certification application.** The Hg designated representative of an electric generating unit 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) Provisional certification date.** 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 this part for a period not to exceed 120 days after receipt by the state of the complete certification application for the monitoring system under subparagraph b of this paragraph. 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 120 days of the date of receipt of the complete certification application by the state.

**(d) Certification application approval process.** The department will issue a written notice of approval or disapproval of the certification application to the owner or operator within 120 days of receipt of the complete certification application under subparagraph b of this paragraph. In the event the department does not issue such a notice within such 120-day period, each monitoring system that meets the applicable performance requirements of 40 CFR Part 75 and is included in the certification application will be deemed certified for use under this part.

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

**(ii) Incomplete application notice.** 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 owner or operator of an electric generating unit must submit the additional information required to complete the certification application. If the Hg designated representative of an electric generating unit does not comply with the notice of incompleteness by the specified date, then the department may issue a notice of disapproval under this subparagraph. The 120-day review period shall not begin before receipt of a complete certification application.

**(iii) Disapproval notice.** If the certification application shows that any monitoring system does not meet the performance requirements of 40 CFR Part 75 or if the certification application is incomplete and the requirement for disapproval under this subparagraph 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 paragraph 4 of this subsection for each monitoring system that is disapproved for initial certification.

(iv) Audit decertification. The department may issue a notice of disapproval of the certification status of a monitor in accordance with subsection B of 20.2.85.113 NMAC.

(4) Procedures for loss of certification. If the department issues a notice of disapproval of a certification application or a notice of disapproval of certification status under subparagraph d of paragraph 3 of this subsection, then:

(a) the owner or operator shall substitute the following values, for each disapproved monitoring system, for each hour of electric generating 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):

(i) 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.

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

(iii) For a disapproved sorbent 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.

(b) the Hg designated representative of an electric generating unit shall submit a notification of certification retest dates and a new certification application in accordance with subparagraphs a and b of paragraph 3 of this subsection.

(c) the owner or operator shall repeat all certification tests or other requirements that were failed by the monitoring system, as indicated in the state's notice of disapproval, no later than 30 unit operating days after the date of issuance of the notice of disapproval.

**D.** Initial certification and recertification procedures for units using the mercury low mass emission excepted methodology under 40 CFR 75.81(b). The owner or operator of an electric generating unit qualified to use the mercury low mass emissions excepted methodology under 40 CFR 75.81(b) shall meet the applicable certification and recertification requirements in 40 CFR 75.81(c) through (f).

**E.** Certification/recertification procedures for alternative monitoring systems. The Hg designated representative of each electric generating unit for which the owner or operator intends to use an alternative monitoring system approved by the administrator under 40 CFR 75 Subpart E shall comply with the applicable notification and application procedures of 40 CFR 75.20(f).

[20.2.85.107 NMAC - N, 0X/XX/07]

#### **20.2.85.113 MISSING DATA PROCEDURES AND OUT OF CONTROL PERIODS FOR CONTINUOUS MONITORING SYSTEMS.**

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

**B.** Audit decertification. 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 20.2.85.112 NMAC or the applicable provisions of 40 CFR Part 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 administrator. 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 20.2.85.112 NMAC for each disapproved monitoring system.

[20.2.85.108 NMAC - N, 0X/XX/07]

**20.2.85.114 NOTIFICATIONS.** The Hg designated representative of an electric generating unit shall submit in writing all required notices to the department and the administrator in accordance with 40 CFR 75.61.  
[20.2.85.109 NMAC - N, 0X/XX/07]

**20.2.85.115 RECORDKEEPING AND REPORTING.**

**A.** The Hg designated representative of an electric generating unit shall comply with all recordkeeping and reporting requirements in this section and the applicable requirements of 40 CFR 75.84.

**B.** Certification applications. The Hg designated representative of an electric generating unit shall submit an application to the department within 45 days after completing all initial certification or recertification tests required under 20.2.85.112 NMAC, including the information required under 40 CFR 75.63.

**C.** Quarterly reports. The Hg designated representative of an electric generating unit shall submit to the administrator quarterly reports, as follows.

(1) Report of the mercury mass emissions data and heat input data for the electric generating unit, in an electronic quarterly report in a format prescribed by the administrator, for each calendar quarter beginning with:

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

(b) for an electric generating 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 B of 20.2.85.111 NMAC, 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.

(2) The Hg designated representative of a facility shall submit each quarterly report to the administrator within 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).

(3) For electric generating units that are also subject to an acid rain emissions limitation, 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 part.

**D.** Compliance certification. The Hg designated representative of an electric generating unit shall submit to the administrator and the department a compliance certification in support of each quarterly report in a format prescribed by the administrator, based on reasonable inquiry of those persons with primary responsibility for ensuring that all of each electric generating unit's emissions are correctly and fully monitored. The certification shall state that:

(1) the monitoring data submitted were recorded in accordance with the applicable requirements of this part and 40 CFR Part 75, including the quality assurance procedures and specifications; and

(2) for an electric generating 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), 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/quality control program under 40 CFR 75 Appendix B, or quality-assured sulfur dioxide emission data recorded in accordance with 40 CFR Part 75 document that the flue gas desulfurization system, or quality-assured nitrogen oxides emission data recorded in accordance with 40 CFR Part 75 document that the selective catalytic reduction system, was operating properly, as applicable, and the substitute data values do not systematically underestimate mercury emissions.

[20.2.85.110 NMAC - N, 0X/XX/07]

**20.2.85.116 PETITIONS.** The Hg designated representative of an electric generating unit may submit a petition under 40 CFR 75.66 to the department and the administrator requesting approval to apply an alternative to any requirement of 20.2.85.111 NMAC through 20.2.85.115 NMAC and 20.2.85.117 NMAC. Application of an alternative to any requirement of 20.2.85.111 NMAC through 20.2.85.115 NMAC and 20.2.85.117 NMAC is in accordance with this section and 20.2.85.111 NMAC through 20.2.85.115 NMAC and 20.2.85.117 NMAC only to the extent that the petition is approved in writing by the administrator, in consultation with the department.

[20.2.85.111 NMAC - N, 0X/XX/07]

**20.2.85.117 ADDITIONAL REQUIREMENTS TO PROVIDE HEAT INPUT DATA.** The owner or operator of an electric generating unit that monitors and reports mercury mass emissions using a mercury

concentration monitoring system and a flow monitoring system shall also monitor and report heat input rate at the electric generating unit level using the procedures set forth in 40 CFR Part 75.  
[20.2.85.112 NMAC - N, 0X/XX/07]

**HISTORY OF 20.2.85 NMAC:** [RESERVED]