

**CHAPTER 213—H.F.No. 3027**

*An act relating to solid waste; amending mercury testing requirements for certain new incinerator units; amending Minnesota Statutes 2008, section 116.85, subdivision 1a.*

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2008, section 116.85, subdivision 1a, is amended to read:

Subd. 1a. **Mercury testing.** (a) Notwithstanding any other law to the contrary, a facility holding an incinerator permit that contains emission limits for mercury must, as a condition of the permit, conduct periodic stack testing for mercury as described by this subdivision. Hospital waste incinerators having a design capacity of less than 3,000,000 BTU's per hour may use mercury segregation practices as an alternative to stack testing if allowed by applicable federal requirements, with the approval of the commissioner.

(b) A facility shall conduct stack testing for mercury at intervals not to exceed three months. An incinerator facility burning greater than 30 percent by weight of refuse-derived fuel must conduct periodic stack testing for mercury at intervals not to exceed 12 months unless a previous test showed a permit exceedance after which the agency may require quarterly testing until permit requirements are satisfied. With the approval of the commissioner, an incinerator facility may use methods other than stack testing for determining mercury in air emissions.

(c) After demonstrating that mercury emissions have been below 50 percent of the facility's permitted mercury limit for three consecutive years, as tested under the conditions of paragraph (b), an incinerator facility may choose to conduct stack testing once every three years or according to applicable federal requirements, whichever is more stringent. The facility shall notify the commissioner of its alternative mercury testing schedule, and the commissioner shall include operating conditions in the facility's permit that ensure that the facility will continue to emit mercury emissions less than 50 percent of the applicable standard.

(d) The provisions of paragraph (c) allowing for less frequent stack testing for mercury apply to a new unit constructed at a facility that has previously met the requirements of paragraph (c), provided that the new unit demonstrates, as tested under the conditions of paragraph (b), that mercury emissions have been below 50 percent of the new unit's permitted mercury limit for one year.

(e) If a test conducted under the provisions of paragraph (c) shows mercury emissions greater than 50 percent of the facility's permitted mercury limit, the facility shall conduct annual mercury stack sampling until emissions are below 50 percent of the facility's permitted mercury limit. Once the facility demonstrates that mercury emissions are again below 50 percent of the facility's permitted mercury limit, the facility may resume testing every three years or according to federal requirements, whichever is more stringent, upon notifying the commissioner.

~~(e)~~ (f) In amending, modifying, or reissuing a facility's air emissions permit which contains a provision that restricts mercury emissions from the facility the commissioner shall, at a minimum, continue that permit restriction at the same level unless the applicant demonstrates that no good cause exists to do so.

**EFFECTIVE DATE.** This section is effective the day following final enactment.

Presented to the governor March 29, 2010

Signed by the governor April 1, 2010, 10:22 a.m.