

shall submit a statement to the permitting authority otherwise responsible for administering any Hg Budget permit for the unit and shall submit a copy of the statement to the Administrator. The statement shall state, in a format prescribed by the permitting authority, that the unit was permanently retired on a specific date and will comply with the requirements of paragraph (b) of this section.

(3) After receipt of the statement under paragraph (a)(2) of this section, the permitting authority will amend any permit under §§ 60.4120 through 60.4124 covering the source at which the unit is located to add the provisions and requirements of the exemption under paragraphs (a)(1) and (b) of this section.

(b) *Special provisions.* (1) A unit exempt under paragraph (a) of this section shall not emit any mercury, starting on the date that the exemption takes effect.

(2) The permitting authority will allocate Hg allowances under §§ 60.4140 through 60.4142 to a unit exempt under paragraph (a) of this section.

(3) For a period of 5 years from the date the records are created, the owners and operators of a unit exempt under paragraph (a) of this section shall retain at the source that includes the unit, records demonstrating that the unit is permanently retired. The 5-year period for keeping records may be extended for cause, at any time before the end of the period, in writing by the permitting authority or the Administrator. The owners and operators bear the burden of proof that the unit is permanently retired.

(4) The owners and operators and, to the extent applicable, the Hg designated representative of a unit exempt under paragraph (a) of this section shall comply with the requirements of the Hg Budget Trading Program concerning all periods for which the exemption is not in effect, even if such requirements arise, or must be complied with, after the exemption takes effect.

(5) A unit exempt under paragraph (a) of this section and located at a source that is required, or but for this exemption would be required, to have a title V operating permit shall not resume

operation unless the Hg designated representative of the source submits a complete Hg Budget permit application under § 60.4122 for the unit not less than 18 months (or such lesser time provided by the permitting authority) before the later of January 1, 2010 or the date on which the unit resumes operation.

(6) On the earlier of the following dates, a unit exempt under paragraph (a) of this section shall lose its exemption:

(i) The date on which the Hg designated representative submits a Hg Budget permit application for the unit under paragraph (b)(5) of this section;

(ii) The date on which the Hg designated representative is required under paragraph (b)(5) of this section to submit a Hg Budget permit application for the unit; or

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

(7) For the purpose of applying monitoring, reporting, and recordkeeping requirements under §§ 60.4170 through 60.4176, a unit that loses its exemption under paragraph (a) of this section shall be treated as a unit that commences operation and commercial operation on the first date on which the unit resumes operation.

#### § 60.4106 Standard requirements.

(a) *Permit Requirements.* (1) The Hg designated representative of each Hg Budget source required to have a title V operating permit and each Hg Budget unit required to have a title V operating permit at the source shall:

(i) Submit to the permitting authority a complete Hg Budget permit application under § 60.4122 in accordance with the deadlines specified in § 60.4121(a) and (b); and

(ii) Submit in a timely manner any supplemental information that the permitting authority determines is necessary in order to review a Hg Budget permit application and issue or deny a Hg Budget permit.

(2) The owners and operators of each Hg Budget source required to have a title V operating permit and each Hg Budget unit required to have a title V operating permit at the source shall

## Environmental Protection Agency

## § 60.4106

have a Hg Budget permit issued by the permitting authority under §§ 60.4120 through 60.4124 for the source and operate the source and the unit in compliance with such Hg Budget permit.

(3) The owners and operators of a Hg Budget source that is not required to have a title V operating permit and each Hg Budget unit that is not required to have a title V operating permit are not required to submit a Hg Budget permit application, and to have a Hg Budget permit, under §§ 60.4120 through 60.4124 for such Hg Budget source and such Hg Budget unit.

(b) *Monitoring, reporting, and recordkeeping requirements.* (1) The owners and operators, and the Hg designated representative, of each Hg Budget source and each Hg Budget unit at the source shall comply with the monitoring, reporting, and recordkeeping requirements of §§ 60.4170 through 60.4176.

(2) The emissions measurements recorded and reported in accordance with §§ 60.4170 through 60.4176 shall be used to determine compliance by each Hg Budget source with the Hg Budget emissions limitation under paragraph (c) of this section.

(c) *Mercury emission requirements.* (1) As of the allowance transfer deadline for a control period, the owners and operators of each Hg Budget source and each Hg Budget unit at the source shall hold, in the source's compliance account, Hg allowances available for compliance deductions for the control period under § 60.4154(a) in an amount not less than the ounces of total mercury emissions for the control period from all Hg Budget units at the source, as determined in accordance with §§ 60.4170 through 60.4176.

(2) A Hg Budget unit shall be subject to the requirements under paragraph (c)(1) of this section starting on the later of January 1, 2010 or the deadline for meeting the unit's monitor certification requirements under § 60.4170(b)(1) or (2).

(3) A Hg allowance shall not be deducted, for compliance with the requirements under paragraph (c)(1) of this section, for a control period in a calendar year before the year for which the Hg allowance was allocated.

(4) Hg allowances shall be held in, deducted from, or transferred into or

among Hg Allowance Tracking System accounts in accordance with §§ 60.4160 through 60.4162.

(5) A Hg allowance is a limited authorization to emit one ounce of mercury in accordance with the Hg Budget Trading Program. No provision of the Hg Budget Trading Program, the Hg Budget permit application, the Hg Budget permit, or an exemption under § 60.4105 and no provision of law shall be construed to limit the authority of the State or the United States to terminate or limit such authorization.

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

(7) Upon recordation by the Administrator under §§ 60.4150 through 60.4162, every allocation, transfer, or deduction of a Hg allowance to or from a Hg Budget unit's compliance account is incorporated automatically in any Hg Budget permit of the source that includes the Hg Budget unit.

(d) *Excess emissions requirements.* (1) If a Hg Budget source emits mercury during any control period in excess of the Hg Budget emissions limitation, then:

(i) The owners and operators of the source and each Hg Budget unit at the source shall surrender the Hg allowances required for deduction under § 60.4154(d)(1) and pay any fine, penalty, or assessment or comply with any other remedy imposed, for the same violations, under the Clean Air Act or applicable State law; and

(ii) Each ounce of such excess emissions and each day of such control period shall constitute a separate violation of this subpart, the Clean Air Act, and applicable State law.

(2) [Reserved]

(e) *Recordkeeping and reporting requirements.* (1) Unless otherwise provided, the owners and operators of the Hg Budget source and each Hg Budget unit at the source shall keep on site at the source each of the following documents for a period of 5 years from the date the document is created. This period may be extended for cause, at any time before the end of 5 years, in writing by the permitting authority or the Administrator.

(i) The certificate of representation under § 60.4113 for the Hg designated representative for the source and each Hg Budget unit at the source and all

**§ 60.4107**

**40 CFR Ch. I (7-1-07 Edition)**

documents that demonstrate the truth of the statements in the certificate of representation; provided that the certificate and documents shall be retained on site at the source beyond such 5-year period until such documents are superseded because of the submission of a new certificate of representation under § 60.4113 changing the Hg designated representative.

(ii) All emissions monitoring information, in accordance with §§ 60.4170 through 60.4176, provided that to the extent that §§ 60.4170 through 60.4176 provides for a 3-year period for record-keeping, the 3-year period shall apply.

(iii) Copies of all reports, compliance certifications, and other submissions and all records made or required under the Hg Budget Trading Program.

(iv) Copies of all documents used to complete a Hg Budget permit application and any other submission under the Hg Budget Trading Program or to demonstrate compliance with the requirements of the Hg Budget Trading Program.

(2) The Hg designated representative of a Hg Budget source and each Hg Budget unit at the source shall submit the reports required under the Hg Budget Trading Program, including those under §§ 60.4170 through 60.4176.

(f) *Liability.* (1) Each Hg Budget source and each Hg Budget unit shall meet the requirements of the Hg Budget Trading Program.

(2) Any provision of the Hg Budget Trading Program that applies to a Hg Budget source or the Hg designated representative of a Hg Budget source shall also apply to the owners and operators of such source and of the Hg Budget units at the source.

(3) Any provision of the Hg Budget Trading Program that applies to a Hg Budget unit or the Hg designated representative of a Hg Budget unit shall also apply to the owners and operators of such unit.

(g) *Effect on other authorities.* No provision of the Hg Budget Trading Program, a Hg Budget permit application, a Hg Budget permit, or an exemption under § 60.4105 shall be construed as exempting or excluding the owners and operators, and the Hg designated representative, of a Hg Budget source or Hg Budget unit from compliance with

any other provision of the applicable, approved State implementation plan, a Federally enforceable permit, or the CAA.

**§ 60.4107 Computation of time.**

(a) Unless otherwise stated, any time period scheduled, under the Hg Budget Trading Program, to begin on the occurrence of an act or event shall begin on the day the act or event occurs.

(b) Unless otherwise stated, any time period scheduled, under the Hg Budget Trading Program, to begin before the occurrence of an act or event shall be computed so that the period ends the day before the act or event occurs.

(c) Unless otherwise stated, if the final day of any time period, under the Hg Budget Trading Program, falls on a weekend or a State or Federal holiday, the time period shall be extended to the next business day.

**§ 60.4108 Appeal procedures.**

The appeal procedures for decisions of the Administrator under the Hg Budget Trading Program shall be the procedures set forth in part 78 of this chapter. The terms “subpart HHHH of this part,” “§ 60.4141(b)(2) or (c)(2),” “§ 60.4154,” “§ 60.4156,” “§ 60.4161,” “§ 60.4175,” “Hg allowances,” “Hg Allowance Tracking System Account,” “Hg designated representative,” “Hg authorized account representative,” and “§ 60.4106” apply instead of the terms “subparts AA through II of part 96 of this chapter,” “§ 96.141(b)(2) or (c)(2),” “§ 96.154,” “§ 96.156,” “§ 96.161,” “§ 96.175,” “CAIR NO<sub>x</sub> allowances,” “CAIR NO<sub>x</sub> Allowance Tracking System account,” “CAIR designated representative,” “CAIR authorized account representative,” and “§ 96.106.”

HG DESIGNATED REPRESENTATIVE FOR  
HG BUDGET SOURCES

**§ 60.4110 Authorization and Responsibilities of Hg designated representative.**

(a) Except as provided under § 60.4111, each Hg Budget source, including all Hg Budget units at the source, shall have one and only one Hg designated