

**TRANSALTA'S PROPOSAL: AMENDING ECOLOGY'S AUGUST 7, 2007 DRAFT RULE**

**Chapter 173-406 WAC**

**((ACID RAIN REGULATION)) ELECTRIC GENERATING UNIT RULE**

NEW SECTION

**WAC 173-406-010 Purpose of chapter.** This rule addresses the following air pollutants from electric generating units:

(1) The rule implements the federal Acid Rain Program covering emissions of sulfur dioxide and nitrogen oxides. Washington state is implementing the federal Acid Rain Program by adopting the federal rules by reference.

(2) The rule establishes requirements to control mercury emissions from coal-burning electric generating units. This rule and the complementary rule at chapter 463-80 WAC adopted by the energy facility site evaluation council (EFSEC) implement the statewide program. These rules fulfill the requirements under 40 CFR 60.24(h) that the state adopt emission standards and compliance schedules to attain and maintain Washington's annual mercury emission budget from electric generating units.

**PART A**

**ADOPTION BY REFERENCE**

NEW SECTION

**WAC 173-406-020 Adoption by reference.** The following provisions of the Code of Federal Regulations, as they exist on July 1, 2007, and amended by the direct final rule in the September 7, 2007, Fedederal Register, and amended by the proposed rules and revisions in the December 22, 2006, Federal Register, pages 77121-77147; and the proposed revisions in the April 25, 2007, Federal Register, pages 20478-20479, are adopted by reference:

(1) 40 CFR Part 60, subpart HHHH (emission guidelines and compliance times for coal-fired electric steam generating units) with the following exceptions:

(a) The following sections are adopted by reference until midnight, December 31, 2012~~7~~:

- (i) 40 CFR 60.4101;
- (ii) 40 CFR 60.4106 (c) and (d);
- (iii) 40 CFR 60.4107 - 60.4108;
- (iv) 40 CFR 60.4151 - 60.4152;
- (v) 40 CFR 60.4154 - 40 CFR 60.4156; and
- (vi) 40 CFR 60.4175 - 60.4176.

(b) The following sections are not adopted by reference:

- (i) 40 CFR 60.4104;
  - (ii) 40 CFR 60.4105;
  - (iii) 40 CFR 60.4140;
  - (iv) 40 CFR 60.4141;
  - (v) 40 CFR 60.4142;
  - (vi) 40 CFR 60.4153;
  - (vii) 40 CFR 60.4161; and
  - (viii) 40 CFR 60.4162.
- (2) 40 CFR Part 72 Permits Regulation
  - (3) 40 CFR Part 73 Sulfur Dioxide Allowance System
  - (4) 40 CFR Part 74 Sulfur Dioxide Opt-Ins
  - (5) 40 CFR Part 75 Continuous Emission Monitoring
  - (6) 40 CFR Part 76 Acid Rain Nitrogen Oxides Emission Reduction Program
  - (7) 40 CFR Part 77 Excess Emissions

## TRANSALTA'S PROPOSAL: AMENDING ECOLOGY'S AUGUST 7, 2007 DRAFT RULE

(8) 40 CFR Part 78 Appeal Procedures

The federal Acid Rain Program rules are found in 40 CFR parts 72, 73, 74, 75, 76, 77 and 78.

To find federal rules electronically on the internet, go to the U.S. Government Printing Office web site at [http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?&c.=ecfr&tpl.=/ecfrbrowse/Title40/40tab\\_02.tpl](http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?&c.=ecfr&tpl.=/ecfrbrowse/Title40/40tab_02.tpl)

- The December 22, 2006, Federal Register notice is found at <http://www.epa.gov/fedrgstr/EPA-AIR/2006/December/Day-22/a21573.pdf>.

- The April 25, 2007, Federal Register notice is found at <http://www.epa.gov/fedrgstr/EPA-AIR/2007/April/Day-25/a7536.pdf>.

### PART B

#### CONTROL OF MERCURY EMISSIONS FROM COAL-FIRED ELECTRIC GENERATING UNITS

##### NEW SECTION

**WAC 173-406-030 Purpose of Part B.** (1) The purpose of this part and chapter 463-80 WAC is to establish the statewide program to control mercury emissions from coal-fired electric generating units. This part ensures that mercury emissions from these units will not exceed Washington's annual mercury emissions budget for electric generating units established by EPA in 40 CFR 60.24(h).

(2) Coal-fired electric generating units are known as "mercury budget units" in this rule. Ecology, local air agencies, and the energy facility site evaluation council (EFSEC) regulate mercury budget units in Washington.

(a) Ecology and local air agencies issue the air quality permits for the existing plant and a new plant with a generating capacity of less than 350 megawatts.

(b) EFSEC issues an air quality permit attached to a site certification agreement for a new plant with a generating capacity of 350 megawatts or more. Refer to RCW 80.50.020(14) for the definition of an "energy plant" under EFSEC's jurisdiction.

(c) Ecology will maintain the Washington state mercury emissions program covered by this rule for all permitting authorities, including ecology, the local air agencies, and EFSEC.

(d) EFSEC and the local air agencies will coordinate with ecology to ensure that the statewide mercury emissions budget is not exceeded.

(3) Portions of this rule are based on assumptions regarding the pounds per year of mercury emissions from the existing source. By August, 2007, the existing source will be collecting information on actual mercury emissions from continuous emissions monitors (CEM), which is in advance of the January 2009 date required by the federal rule.

(a) In response to this new mercury emissions data, and within two years of the effective date of this rule, ecology must review any available mercury emissions monitoring data.

(b) Based on that CEM data, ecology will:

(i) Reassess the requirements of this rule, including the emission standard and compliance date; and

(ii) If the CEM data show emissions from the existing source are significantly higher than the assumptions underlying this rule, publish notice in the Washington State Register of its decision to either take no action or begin the rule-making process to consider appropriate revisions to the requirements of this rule. the emission standard and/or compliance date if appropriate to allow for construction of controls to comply with the emission standard.

## TRANSALTA'S PROPOSAL: AMENDING ECOLOGY'S AUGUST 7, 2007 DRAFT RULE

### NEW SECTION

**WAC 173-406-040 Applicability.** (1) This chapter applies to each stationary source that includes one or more mercury budget units. A mercury budget unit means:

(a)(i) A stationary coal-fired boiler or stationary coal-fired combustion turbine serving a generator with a nameplate capacity of more than 25 megawatts electric (MWe) producing electricity for sale; and

(ii) Applicability begins on the later of November 15, 1990, or the date of the start-up of the unit's combustion chamber.

(b) An integrated gasification-combined cycle (IGCC) electric utility steam generating unit that burns a synthetic gas derived from coal in a combined cycle gas turbine. An IGCC that does not use any coal in production of the synthetic gas is not subject to this rule.

(c) A cogeneration unit, as defined in WAC 173-406-050, that qualifies as a cogeneration unit for at least one calendar year after its initial twelve-month operating period but then does not continue to qualify becomes a mercury budget unit starting on the earlier of:

(i) January 1 after the first calendar year during which the unit first no longer qualifies as a cogeneration unit; or

(ii) January 1 after the first calendar year during which the unit meets the requirements of subsection (2) of this section.

(2) A stationary boiler or stationary combustion turbine becomes subject to this rule on the day that it begins to combust coal or coal-derived fuel and serves a generator with a nameplate capacity of more than 25 megawatts electric (MWe) producing electricity for sale.

(3) The following stationary coal-fired boilers and stationary coal-fired combustion turbines are not mercury budget units:

(a) A mercury budget unit that qualifies as a cogeneration unit on the date the unit first produces electricity and continues to qualify as a cogeneration unit; and

(b) A cogeneration unit that since the later of November 15, 1990, or the start-up of the unit's combustion chamber:

(i) Serves a generator with a nameplate capacity of 25 megawatts electric (MWe) or less; and

(ii) Supplies in any calendar year equal to or less than one-third of its potential electric output capacity or 219,000 megawatt hours (MWh), whichever is greater, to any utility power distribution system for sale.

(c) A solid waste incineration unit combusting municipal waste that would otherwise be considered a mercury budget unit is not considered a mercury budget unit if the incineration unit is subject to any of the following requirements:

(i) SCAPCA Regulation I, Section 6.17 (standards for municipal solid waste combustors);

(ii) 40 CFR Part 60, subpart Eb (standards of performance for certain large municipal waste combustors);

(iii) 40 CFR Part 60, subpart AAAA (standards of performance for certain small municipal waste combustors); or

(iv) 40 CFR Part 62, subpart JJJ (federal plan requirements for certain small municipal waste combustion units).

### NEW SECTION

**WAC 173-406-050 Definitions.** The definitions, abbreviations and acronyms in 40 CFR 60.4102 apply throughout WAC 173-406-030 through 173-406-150. The following terms are included here, in addition to state-specific definitions, to assist in understanding this rule.

(1) "Air quality permit"

**TRANSALTA'S PROPOSAL: AMENDING ECOLOGY'S AUGUST 7, 2007 DRAFT RULE**

- (2) "Allowance"
- (3) "Best available control technology"
- (4) "Boiler"
- (5) "Bottoming cycle cogeneration unit"
- (6) "Btu"
- (7) "Buyer"
- (8) "Coal-derived fuel"
- (9) "Coal-fired"
- (10) "Cogeneration unit"
- (11) "Calendar year"
- (12) "Combustion turbine"
- (13) "Commence commercial operation"
- (14) "Compliance account"
- (15) "Ecology"
- (16) "Electric generating unit"
- (17) "Excess emissions" means any ounce of mercury emitted by the mercury budget unit at a mercury budget source during a calendar year that exceeds the tradable units in the source's tradable unit account. ~~mercury budget emissions limitation allocated to the source.~~
- (18) "Existing mercury budget unit or source"
- (19) "General account"
- (20) "Generator" means a device that produces electricity.
- ~~(21) "Gross electrical output" means the electricity made available for use, including any electricity used in the process of producing electricity. The power production 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.~~
- (22) "Heat input"
- (23) "Integrated gasification-combined cycle electric utility steam generating unit"
- (24) "kWh"
- (25) "Mercury allowance"
- (26) "Mercury budget emissions limitation"
- (27) "Mercury budget source"
- (28) "Mercury budget unit"
- (29) "Report of Transfer of Mercury Tradable Units"
- (30) "MMBtu"
- (31) "MWe"
- (32) "MWh"
- (33) "Nameplate capacity"
- (34) "New mercury budget unit or source" means a unit or source subject to this rule that either (a) commences operation after January 1, 2001 or (b) is existing with a project that qualifies as construction, reconstruction, or repowering ~~or modification,~~ within the meaning of 40 CFR Part 60. ~~Changes to an existing unit or source that are required in order to comply with this rule are not considered a modification triggering this definition.~~
- (35) "Permitting authority"
- (36) "Potential electrical output capacity"
- (37) "Repowered"
- (38) "Seller"
- (39) "Sequential use of energy"
- (40) "Topping-cycle cogeneration"
- (41) "Total energy input"
- (42) "Total energy output"
- (43) "Tradable unit"
- (44) "Tradable unit bank"
- (45) "Tradable unit transfer deadline"
- (46) "Useful power"
- (47) "Useful thermal energy"

TRANSALTA'S PROPOSAL: AMENDING ECOLOGY'S AUGUST 7, 2007 DRAFT RULE

Program for 2010 ~~, 2011, and 2012~~ through 2017

NEW SECTION

WAC 173-406-060 Washington mercury allowance allocation for calendar years 2010 ~~, 2011, and 2012~~ through 2017. (1) For the years 2010 ~~, through 2011, and 2012~~ 2017, mercury budget sources in Washington state will participate in the national mercury allowance market operated by the EPA Clean Air Market Division. Except as provided in subsection (4)(c) of this section, if a mercury budget source sells allowances, all proceeds from the sale must be used for the capital or operation and maintenance costs of air pollution controls. The mercury designated representative shall submit to Ecology by February 1 of each year an accounting of allowances sold and the activities that were funded by the proceeds during the prior calendar year.

(2) For the years 2010 ~~, 2011, and 2012~~ through 2017, the Washington state mercury emission budget is 6336 allowances per year (396 pounds).

(3) For calendar year 2010, the federal rules in 40 CFR Part 62, subpart LLL, as amended by the direct final rule in the September 7, 2007, Federal Register, pp. 51501 - 51531, will apply in Washington state so 40 CFR 62.15942 will allocate the mercury allowance. Though these rules are not final, EPA's proposed rules are available for review in the Federal Register:

(a) December 22, 2006, 71 Federal Register 77127 - 77146. (<http://www.epa.gov/fedrgstr/EPA-AIR/2006/December/Day-22/a21573.pdf>)

(b) April 25, 2007, 72 Federal Register 20478 - 20479. (<http://www.epa.gov/fedrgstr/EPA-AIR/2007/April/Day-25/a7536.pdf>)

(4) For calendar years 2011 ~~and 2012~~ through 2017, the mercury emission budget is allocated as follows:

(a) The compliance account held by the existing mercury budget source (TransAlta Centralia Generation LLC for units BW21 and BW22): ~~44355702~~ 44355702 mercury allowances per year (~~277356.2~~ pounds).

(b) The general account held by ecology: ~~1901634~~ 1901634 mercury allowances per year (~~118.839.6~~ pounds). The general account contains the following subaccounts:

(i) New source account: ~~317317~~ 317317 mercury allowances per year (~~19.819.8~~ pounds) are designated for use by new mercury budget sources.

(A) Any mercury allowances remaining in this account after ecology has distributed them according to WAC 173-406-080(3) will be moved to the supplemental account in (b)(ii) of this subsection for redistribution during the same period.

~~(B) If there are no requests for use of the new source account by the deadline in WAC 173-406-070 (4)(e), the entire new source account will be transferred to the supplemental account.~~

~~(i) Supplemental account: The supplemental account is designated for use by new mercury budget sources whose actual emissions exceed their allowance. The supplemental account shall include the undistributed mercury allowances from the new source account.~~

~~(ii) Public health retirement account: 317 mercury allowances per year (19.8 pounds) will not be allocated for any purpose. 1584 mercury allowances per year (99 pounds) are designated for use by mercury budget sources whose actual emissions exceed their allowance.~~

~~(c) Unallocated allowances each year will not be available for distribution in any future distribution period or in any state or federal allowance market.~~ Allowances remaining in the supplemental account following the deadline for requests from the account by new mercury budget sources, or if requests are made, following Ecology's decision on such requests, shall be moved to the compliance account of the existing mercury budget source. Within the calendar year that allowances are transferred to its compliance account, the existing mercury budget source shall sell such allowances or such lesser

**TRANSALTA'S PROPOSAL: AMENDING ECOLOGY'S AUGUST 7, 2007 DRAFT RULE**

number transferred to its compliance account in the EPA national mercury allowance market and submit the proceeds from the sale to the Emission Reduction Technology Fund to be established by Ecology for the purpose of funding emission control projects throughout the state. [Alternatively: If Ecology lacks authority to create the ERTF, the rule could provide: "The existing mercury budget source shall submit the proceeds from the sale to an Emission Reduction Technology Fund that it creates for the purpose of funding emission control projects throughout the state approved and designated by Ecology."]

NEW SECTION

**WAC 173-406-070 Requesting a mercury allowance during 2010, ~~2011,~~ and ~~2012~~ through 2017.** (1) A mercury allowance request for calendar year 2010 is governed by 40 CFR 62.15942. EPA will distribute allowances for this year.

(2) Mercury allowances from the general account in WAC 173-406-060 (4)(b) are available for distribution to an ~~existing or~~ new mercury budget source.

~~(3) A request for mercury allowances from the new unit account and the supplement account for calendar years 2011 and 2012 may be combined in one application.~~

~~(4)~~ (43) A mercury budget source allowance request for calendar years 2011 and ~~2012~~ through 2017 must meet the following requirements:

(a) The request must include a copy of the electronic quarterly report required to be submitted to EPA under 40 CFR 75.84(f) for the fourth quarter of the year;

(b) A request for an allowance from the new source account must comply with one of the following:

(i) A mercury budget unit that commences commercial operation before July 1, 2008, may request a mercury allowance for calendar years 2011 and through 2017.

(ii) A mercury budget unit that commences commercial operation on or after July 1, 2008, may request a mercury allowance starting with the calendar year of operation in which the unit becomes subject to the monitoring system requirements in 40 CFR 60.4170(b).

(c) A request for an allowance from the new source account must not exceed the actual mercury emissions reported to EPA in the fourth quarter emissions report or the available allowance in the account, whichever is less;

(d) A request for an allowance from the supplemental account must not exceed the actual annual mercury emissions as reported to EPA in the fourth quarter emissions report (less the allowances requested from another account or received under WAC 173-406-060 (4)(a) or (4)(b)(i)) or the available allowances in the supplemental account, whichever is less; and

(e) A request for an allowance must be submitted on or before February 1st of the year following the calendar year for which the mercury allowance is requested. If February 1st is not a business day, the deadline becomes the first business day thereafter.

NEW SECTION

**WAC 173-406-080 Allocating a mercury allowance during 2010, ~~2011,~~ and ~~2012~~ through 2017.** (1) EPA will record the mercury allowance allocations consistent with the following:

(a) 40 CFR 62.15942 for calendar year 2010; and

(b) WAC 173-406-060(4)(a) and (b) for calendar years 2011 and ~~2012~~ through 2017.

(2) By February 10th of the year following the calendar years 2011 and

**TRANSALTA'S PROPOSAL: AMENDING ECOLOGY'S AUGUST 7, 2007 DRAFT RULE**

~~2012~~through 2017, ecology must:

(a) Review all allowance requests submitted under WAC 173-406-070(~~43~~) at the same time;

(b) Transfer allowances to the mercury budget source's compliance account consistent with the requirements in this section, WAC 173-406-070 and 40 CFR 60.414~~01~~;

(c) Transfer no more than ~~1901~~6336 ounces (~~119.8~~396 pounds) for all mercury budget sources in each calendar year; and

(d) Notify each mercury budget source and its permitting authority concurrently with notifying EPA of any decision to transfer allowances.

(3) Distributing allowances from the new source account.

(a) If the sum of all mercury allowance requests from new mercury budget sources is equal to or less than ~~317~~317 ounces (~~19.8~~19.8 pounds), ecology will transfer the requested allowances from the new source account to the compliance account for each mercury budget source equal to the number of ounces requested.

(b) If the sum of all mercury allowance requests is greater than ~~317~~317 ounces (~~19.8~~19.8 pounds), ~~ecology will distribute the allowances from the new source account to the compliance account to of the new mercury budget units by priority of initial air quality permit issuance date. The resulting allowances will be transferred from the new source account to the compliance account for each mercury budget source.~~

(4) Distributing allowances from the supplemental account.

(a) If the sum of all requests is equal to or less than ~~1584 ounces (99 pounds)~~, the number in the supplemental account, ecology will transfer the requested allowances from the supplemental account ~~new source account~~ to the compliance account for each mercury budget source equal to the number of ounces requested.

(b) If the sum of all mercury allowance requests is greater than the number in the supplemental account, ~~1584 ounces (99 pounds)~~, ecology will transfer the allowances starting with the air quality permit with the oldest issuance date. Ecology will continue to transfer allowances ~~from the supplemental account~~ to the compliance account for each mercury budget source until there are no allowances remaining in the supplemental account.

(5) Ecology must provide public notice of the following:

(a) A request for a mercury allowance allocation and the accompanying decision;

(b) The number of unused mercury allowances;

(c) Cumulative ounces of mercury emitted in the quarterly emissions monitoring report submitted to EPA; and

(d) Mercury allowances allocated under subsection (4) of this section.

(6) Construction extension request. In addition to other applicable requirements, evaluation of a request for extension of an air quality permit for a mercury budget source subject to this chapter must include the following:

(a) A demonstration by the mercury budget source that construction will commence during the extension period;

(b) A determination by the permitting authority that the source will commence construction, as it is defined in chapter 173-400 WAC, within the permit extension period; and

(c) The permitting authority must notify ecology of each request for a construction extension and of its decision on that request.

**Program for ~~2013~~8 and Beyond**

**TRANSALTA'S PROPOSAL: AMENDING ECOLOGY'S AUGUST 7, 2007 DRAFT RULE**

NEW SECTION

**WAC 173-406-090 Washington mercury emissions budget for calendar year 2013~~8~~ and beyond.** (1) Beginning January 1, 2013~~8~~, Washington state will not participate in the national mercury trading market operated by the EPA Clean Air Market Division. (<http://www.epa.gov/airmarkets/>)

(2) Beginning on January 1, 2013~~8~~:

(a) The Washington state mercury emissions budget for mercury budget sources is limited to ~~the larger of:~~

~~(i) 2240496 ounces per year (14056 pounds); or~~

~~(ii) The total number of mercury emissions authorized to be emitted by all mercury budget sources in an air quality permit issued by December 31, 2012, not to exceed 2496 ounces per year (156 pounds).~~

~~(iii) One ounce of mercury emissions equals one tradable unit.~~

(ii) Public health retirement account: 317 mercury allowances per year (19.8 pounds) will not be allocated for any purpose.

(b) Regardless of (a) of this subsection, ten percent of each group of tradable units that are reserved but are returned to the state mercury emissions budget must be permanently deducted for public health.

~~(i) Tradable units that may be returned to the state include those that are reserved or distributed.~~

~~(ii) Deductions of tradable units other than a whole number must be rounded to the nearest whole unit.~~

~~(iii) Ecology must not allocate tradable units deducted under this subsection.~~

~~(c) EXCEPT: For each calendar year 2013 through 2016, an additional 3200 tradable units per year (200 pounds) are available for distribution under the temporary alternate emission standard provisions. The 3200 tradable units can be distributed as follows:~~

~~(i) 2,720 tradable units per year (170 pounds) to an existing mercury budget source.~~

~~(ii) 48067 tradable units per year (3029 pounds) to new mercury budget sources. No more than 24034 tradable units may be distributed to one mercury budget source unless there are surplus tradable units.~~

~~(iii) Surplus, or undistributed, tradable units from either (i) or (ii) of this subsection~~ the new source account may be distributed as needed by sources whose actual emissions exceed their allowance. If there is more than one request for the surplus, ecology will distribute the tradable units on a prorated basis based on the size of the request.

NEW SECTION

**WAC 173-406-110 Allocating and recording tradable units for calendar year 2013~~8~~ and beyond.** (1) All tradable units in the Washington state mercury emissions budget will be held by ecology until allocated and recorded according to this section, WAC 173-406-140, and 173-406-150.

(2) Starting January 1, 2013~~8~~, the tradable units in WAC 173-406-090 (2)(a) are allocated to a mercury budget source's tradable unit account as follows:

(a) Allocations of Ttradable units will be calculated using Formula A or B, as appropriate:

(i) Formula A applies to an existing mercury budget unit:

Tradable units per year . = A x B x C x D x E

When:

A . = Net megawatt rating of mercury budget unit (MW)

B . = 8760 hours per year (maximum operating hours in one year)

## TRANSALTA'S PROPOSAL: AMENDING ECOLOGY'S AUGUST 7, 2007 DRAFT RULE

C .= 1 Gigawatt/1000 Megawatt (units conversion constant)  
D .= 16 ounces/1 pound (units conversion constant)  
E .= Emission rate of 0.008~~0~~ in pounds of mercury per gigawatt hour net electrical output (lb/GWh)

(ii) Formula B applies to a new mercury budget unit:

Tradable units per year .= A x B x C x D x F

When:

A .= Net megawatt rating of mercury budget unit from fuel based on coal or from a burner designed to run on coal or coal-derived fuel (MW)

B .= 8760 hours per year (maximum operating hours in one year)

C .= 1 Gigawatt/1000 Megawatt (units conversion constant)

D .= 16 ounces/1 pound (units conversion constant)

F .= The lesser ~~power~~ emission rate of Best Available Control Technology established in the air quality permit and expressed in pounds of mercury per gigawatt hour net electrical output or 0.0066 pounds of mercury per gigawatt hour (lb/GWh)

(b) Ecology will continue to allocate tradable units for each mercury budget source until there are no tradable units remaining.

(i) Ecology must give priority for distribution to the mercury budget source with the earliest date of initial air quality permit, regardless of permitting authority. For example, ecology will give a plant with an earlier permit date priority over a plant with a permit issued on a later date; and

(ii) Tradable units will not be distributed to a ~~mercury~~ budget unit if those units would result in the Washington state emissions budget exceeding the number established in WAC 173-406-090(2) on an annual basis.

~~(iii)~~ New mercury budget unit.

(A) Ecology will reserve the number of tradable units calculated using the Formula B in (a)(ii) of this subsection for a new mercury budget unit starting on the date of issuance of the unit's<sup>+</sup> air quality permit. If the number of available tradable units in the Washington state mercury emissions budget is less than the number calculated using the formula, ecology will reserve the lower number. The reservation will continue until the day the permit ~~becomes~~ invalid or ecology records or denies a request submitted under (B) of this subsection.

(B) The mercury budget unit must submit a request to ecology to be allocated tradable units for its first year of operation. The request must be submitted on or after the date established under WAC 173-406-150 (4)(b) and prior to the midnight, March 1st, tradable unit transfer deadline for that calendar year.

(C) The number of tradable units allocated for the first calendar year of operation will be based on the following revision to Formula B in (a)(ii) of this subsection: "B" will be equal to twenty-four hours x number of days of operation for the calendar year beginning on the date established by WAC 173-406-150 (4)(b).

(c) In determining how to allocate tradable units, units other than a whole number must be rounded to the nearest whole unit. That is, 5.1 through 5.4 units are rounded to 5 units and 5.5 through 5.9 units are rounded to 6 units.

(d) Ecology will allocate all tradable units on a calendar year basis.

(3) Recording a tradable unit allocation.

(a) By December 1<sup>st</sup> of each year, Ecology will record the tradable unit allocation for each mercury budget unit in the source's tradable unit account for the upcoming calendar year. Beginning in 201~~2~~7, Ecology must record allocations and transfers of tradable units in the following order in each 10/06/07

**TRANSALTA'S PROPOSAL: AMENDING ECOLOGY'S AUGUST 7, 2007 DRAFT RULE**

tradable unit account:

(i) Tradable unit allocation distributed according to subsection (2) of this section; and

~~(ii) Deductions for excess emissions required under WAC 173-406-140(4);~~

(iii) In-state transfers s under WAC 173-406-150, in the order of date submitted; ~~and.~~

~~(iv) Removal of each tradable unit in excess of the number calculated using the applicable formula in subsection (2) of this section.~~

(b) ~~(+)~~ Ecology will record the tradable unit allocation in the a new mercury budget source's tradable unit account within five calendar days of receiving a request for its first year of operation, consistent with the provisions in subsection (2)(b)(iii)(B) and (C) of this section.

(c) ~~(+)~~ Tradable unit allocations are valid for the calendar year for which they are issued.

(d) Tradable units will continue to be recorded in a mercury budget source's tradable unit account for five consecutive calendar years commencing the calendar year following the year that ~~once~~ a mercury budget unit has shut down or ceased operation.

(i) Any year in which a mercury budget unit has operated without generating power at an annual capacity factor above ten percent (meaning the unit operated less than 876 hours per year) is considered a year in which the unit did not operate.

(ii) A mercury budget unit that is in its fifth consecutive year of operating without generating power at an annual capacity factory above ten percent will not be recorded an allocation for the upcoming year ~~+~~; PROVIDED, That the 3<sup>rd</sup> quarter emissions report submitted under 40 CFR 75.84 and the operating status of the unit suggests indicates that the unit will not meet the minimum operating capacity to receive an allocation.

(iii) An owner or operator not receiving a tradable unit allocation under this subsection may petition ecology to distribute the current upcoming calendar year allocation; PROVIDED, That the ~~previous~~ 4<sup>th</sup> quarter emissions report submitted under 40 CFR 75.84 demonstrates the mercury budget unit generated power at an annual capacity factory above ten percent for the calendar during the fifth consecutive year.

(e) A transferred tradable unit with a future year delivery date becomes part of the buyer mercury budget source's baseline allocation, in addition to the allocation under Subsection (2), above, ~~once~~ the seller has shut down the mercury budget source or unit so that the seller no longer receives tradable units for that particular mercury budget unit or source or once the seller has an enforceable permit limit lower than the limit in the allocation formula under subsection (2), above; PROVIDED, That future year tradable units must be transferred while the seller is operating or during the five consecutive years following shutdown in which tradable units continue to be recorded in its compliance account as provided by subsection (3)(d), above. ~~ecology would otherwise distribute the tradable unit to the mercury budget unit through subsection (2) of this section.~~

(4) Tradable units in WAC 173-406-090 (2)(c) are allocated and recorded following the requirements in WAC 173-406-130(4).

(5) Ecology will track the allocation, recording, transfer and reservation of all tradable units. This information will be made available to the public on the agency internet web site.

(6) Construction extension request. In addition to other applicable requirements, evaluation of a request for an extension of an air quality permit for a mercury budget source subject to this chapter must include the following:

(a) A demonstration by the mercury budget source that construction will commence or resume during the extension period; and

(b) A determination by the permitting authority that the source will commence construction, as it is defined in chapter 173-400 WAC, within the

**TRANSALTA'S PROPOSAL: AMENDING ECOLOGY'S AUGUST 7, 2007 DRAFT RULE**

permit extension period.

NEW SECTION

**WAC 173-406-120 Emission standards for a mercury budget unit. (1)**

Beginning January 1, 2013<sup>1</sup>, a mercury budget unit must comply with one of the following emission standards on a rolling twelve-month basis:

(a) For an existing mercury budget unit: 0.008<sup>16</sup> pounds of mercury per gigawatt hour net electrical output; or

(b) For a new mercury budget unit: Best available control technology established in the air quality permit in pounds of mercury per gigawatt hour net electrical output that must not be greater than 0.0066 pounds of mercury per gigawatt hour net electrical output.

(c) Exceptions are listed in WAC 173-406-130.

(2) ~~—~~ Determining compliance with subsection (1) of this section begins on the following dates:

(a) Midnight of December 31, 2011, f~~January 1, 2014, for the~~ mercury budget unit that commences or resumes commercial operation on or before January 1, 2011 that commences commercial operation before July 1, 2012; or

(b) For the owner or operator of a mercury budget unit that commences or resumes commercial operation on or after January 1, 2011, —that commences commercial operation on or after July 1, 2012, the first anniversary of the latter of the~~midnight of the last day of the month of the following date:~~ following dates:

~~—~~ (i) ~~January 1, 2013;~~ or

~~—~~ (ii) Ninety unit operating days or one hundred eighty calendar days, ~~whichever occurs first,~~ after the date on which the unit commences or resumes commercial operation, whichever occurs first.

(c) In demonstrating compliance with the emission standard in subsection (1)(a), above, the existing source may average the emissions or reductions from any mercury budget units at the existing source that are subject to such emission standard.

(3) Monitoring, reporting, and recordkeeping requirements.

(a) The owner or operator of a mercury budget source must measure, record, and report the mercury in the exhaust gases following the requirements and procedures in 40 CFR 60.4170 - 60.4176, and 40 CFR Part 75, Subpart I.

(b) The emissions measurements recorded and reported according to 40 CFR 60.4170 - 60.4176, and 40 CFR Part 75, Subpart I, must be used to determine compliance by each mercury budget unit with the mercury budget emissions limitation under WAC 173-406-140. In addition, net megawatt electric (MWe) must be measured by a Bonneville Power Administration certified meter.

(c) Quarterly reports required under 40 CFR 75.84(f) must also be sent to ecology and the permitting authority.

(d) The owner or operator of the mercury budget source must submit a monthly emissions report to ecology and the source's permitting authority within thirty days of the end of a month in which a unit fails to achieve the rolling twelve month emission standard ~~either on a monthly average basis.~~

(4) Mercury reduction plan.

(a) By ~~January~~<sup>July</sup> 1, 2011<sup>09</sup>, the owner or operator of an existing mercury budget source must submit an application to the permitting authority describing how it will establish appropriate monitoring, recordkeeping, reporting, operational requirements and other conditions necessary to ensure compliance with the mercury emission standard in subsection (1) of this section.

(b) The application must include the following elements, at a minimum:

(i) A mercury control plan projected to achieve compliance with the emission limit;

**TRANSALTA'S PROPOSAL: AMENDING ECOLOGY'S AUGUST 7, 2007 DRAFT RULE**

(ii) Technology or any other mercury control practices proposed to be used to achieve compliance;

(iii) A schedule for implementing the selected control technology, including major milestones;

(iv) Installation and operation requirements; and

(v) Work practice standards for the selected technology.

(c) If the permitting authority determines that the mercury emission control strategy is projected to achieve compliance with the emission standard, the permitting authority must include the provisions of the control strategy as conditions in either a regulatory order or a revision to a permit.

(i) The permitting agency must post receipt of the application containing the mercury reduction plan on the internet;

(ii) The permitting agency must provide a minimum thirty-day public notice and comment period consistent with WAC 173-400-1571 (3) and (4) before approving or denying the proposed order or permit revision; and

(iii) The permitting agency must post the final regulatory order or permit revision on the internet.

(5) Beginning January 1, 2015, an existing mercury budget unit must comply with an emission standard of 0.008 pounds of mercury per gigawatt hour net electrical output on a rolling twelve-month basis. Exceptions are listed in WAC 173-406-130.

(a) Determining compliance with subsection (5) of this section begins on the following date:

(i) Midnight of December 31, 2015, for a mercury budget unit that was operating on or before January 1, 2015; or

(ii) For the owner or operator of an existing mercury budget unit that resumes commercial operation on or after January 1, 2015, the first anniversary of midnight of the last day of the month of the following date: ninety unit operating days or one hundred eighty calendar days after the date on which the unit commences or resumes commercial operation, whichever occurs first.

(b) In demonstrating compliance with the emission standard in subsection (5), above, the existing source may average the emissions or reductions from any mercury budget units at the existing source that are subject to such emission standard.

(c) Monitoring, reporting, and recordkeeping requirements shall be as provided in Subsection (3), above.

(d) Mercury reduction plan.

(i) By January 1, 2013, the owner or operator of an existing mercury budget source must submit an application to the permitting authority describing how it will establish appropriate monitoring, recordkeeping, reporting, operational requirements and other conditions necessary to ensure compliance with the mercury emission standard in subsection (5) of this section.

(ii) The application must include the following elements, at a minimum:

(A) A mercury control plan projected to achieve compliance with the emission limit;

(B) Technology or any other mercury control practices proposed to be used to achieve compliance;

(C) A schedule for implementing the selected control technology, including major milestones;

(D) Installation and operation requirements; and

(E) Work practice standards for the selected technology.

(iii) If the permitting authority determines that the mercury emission control strategy is projected to achieve compliance with the emission standard, the permitting authority must include the provisions of the control strategy as conditions in either a regulatory order or a revision to a permit.

## TRANSALTA'S PROPOSAL: AMENDING ECOLOGY'S AUGUST 7, 2007 DRAFT RULE

(A) The permitting agency must post receipt of the application containing the mercury reduction plan on the internet;

(B) The permitting agency must provide a minimum thirty-day public notice and comment period consistent with WAC 173-400-171 (3) and (4) before approving or denying the proposed order or permit revision; and

(C) The permitting agency must post the final regulatory order or permit revision on the internet.

### NEW SECTION

**WAC 173-406-130 Temporary alternate emission standard for calendar years ~~2013~~ through ~~2016~~.**

(1) A mercury budget source may apply for a compliance order containing an alternate emission standard if the control technology fails to meet, or it would impose an unreasonable economic burden to meet, the emission standard in WAC 173-406-120(1) or 173-406-120(5).

(2) The mercury budget source will not be subject to a compliance action for failing to meet its mercury budget emissions limitation for the calendar year, or the requirements in ~~WAC 173-406-140(3) and~~ 173-406-120(1) or 173-406-120(5) if the source submits a request that meets all of the following conditions:

(a) The owner or operator of the mercury budget source properly implemented the mercury control plan approved under WAC 173-406-120(4) or 173-406-120(5) or BACT as established in its air quality permit, as applicable;

~~(b) The mercury control technology failed under normal operation to meet the emission standard in WAC 173-406-120(1);~~

~~(b)~~ (eb) The owner or operator maintained the mercury budget source, including all associated air pollution control equipment, in a manner consistent with good air pollution control practices for minimizing mercury emissions;

~~(d)~~ (dc) An emissions report was filed with ecology and the source's permitting authority within thirty days of the end of each month in which the emissions standard was not met;

~~(e) The mercury emissions of the mercury budget source do not exceed the number of tradable units recorded in the mercury budget source's tradable unit account through WAC 173-406-110(3)(a)(i) and WAC 173-406-090(2)(c); and~~

(d) If applicable, the owner or operator of the mercury budget source demonstrates that meeting the standard would impose an unreasonable economic burden; and

(fd) Within six months of the end of the first month in which the emissions standard was not met, By June 1, 2014, the owner or operator files a request with the permitting authority for a compliance order that includes at a minimum:

(i) A compliance schedule providing for compliance with the emission standard as soon as technologically and economically practical, but no later than three years following the first month in which the emission standard was not met or January 2018, whichever comes first~~January 1, 2017;~~

(ii) A revised mercury emissions reduction plan; and

(iii) Other information necessary to support the request.

(3) The permitting authority may issue a compliance order in response to a request submitted under subsection (2) of this section if it determines that the control strategy submitted by the owner or operator will achieve the applicable emission standard in WAC 173-406-120(1) or 173-406-120(5). The compliance order must, at a minimum, include the following terms:

(a) An emission rate in pounds per gigawatt hour net electrical output that the monitoring data for the mercury budget unit indicates can be achieved with controls and practices in place on the date the revision is

**TRANSALTA'S PROPOSAL: AMENDING ECOLOGY'S AUGUST 7, 2007 DRAFT RULE**

issued taking into account energy, environmental, and economic impacts, balance of plant impacts, and other costs. The emission rate established expires no later than midnight on December 31, 2016~~7~~;

(b) A requirement that the mercury emissions must not exceed the allowances in the tradable units recorded in the mercury budget source's tradable unit compliance account by the allowance transfer deadline. ~~through WAC 173-406-110(3) and up to an additional 3200 tradable units per year (200 pounds), consistent with the provisions in WAC 173-406-090(2)(c);~~

(c) A schedule for installation, with intermediate benchmark dates, as appropriate;

(d) The ~~earliest~~ date by which compliance with WAC 173-406-120(1) or 173-406-120(5) must be achieved~~;~~ and

~~(e) A requirement that the emissions for the twelve calendar months beginning with the expiration date established under subsection (5)(d) of this section, and each subsequent twelve month period, must meet the limit in WAC 173-406-120(1).~~

(4) Allocating and recording temporary alternate standard tradable units allowances from the supplemental account. ~~Tradable units in WAC 173-406-090 (2)(c)~~ Allowances are allocated to the mercury budget source for calendar years qualifying for the temporary alternate standard 2013 through 2016 and recorded as follows:

(a) If the permitting agency has not issued a compliance order under subsection (3) of this section, Ecology must transfer and record the applicable ~~tradable units~~ allowances consistent with WAC 173-406-090 (2)(c) ~~prior to deducting tradable units for compliance under WAC 173-406-140(3) and shall not bring an enforcement action for prior exceedances of the emission standard:~~ PROVIDED, That the following conditions apply: ~~-~~

(i) This subsection is available for calendar years 2013~~1~~ through 2017 and 2014;

(ii) The mercury budget unit designated account representative or alternate requests additional ~~tradable units~~ allowances prior to the ~~March 1st tradable unit~~ March 1 transfer deadline for the previous calendar year; and

~~(iii) The number of tradable units requested does not exceed the number of ounces of mercury emissions reported in the fourth quarter emissions report required by 40 CFR 75.84(f), minus the number of tradable units recorded in the mercury budget source's tradable unit account from WAC 173-406-110 (3);~~

~~(iv) The mercury budget source submitted monthly emissions reports consistent with the requirements of WAC 173-406-120 (3)(d); and~~

(iv) The permitting authority determined that the unit ~~exceeded the emissions standard due to a failure of the new control equipment~~ qualifies for a temporary alternate standard.

(b) If the permitting agency has issued a compliance order under subsection (3) of this section, Ecology must transfer and record the applicable ~~tradable units~~ consistent with WAC 173-406-090 (2)(c) and the following:

~~(i) The allocation must be based on the equivalent number of tradable units established through a revised allocation Formula A in WAC 173-406-110 (2)(a)(i) for an existing mercury budget source. "E" in the allocation formula must be the emission rate included in the regulatory order or permit issued under subsection (3)(a) of this section;~~

~~(ii) The allocation must be based on the equivalent number of tradable units established through a revised allocation Formula B in WAC 173-406-110 (2)(a)(ii) for a new mercury budget source. "F" in the allocation formula must be the emission rate included in the regulatory order or permit issued under subsection (3)(a) of this section;~~

~~(iii) The allocation must be recorded in the source's tradable unit account;~~

## TRANSALTA'S PROPOSAL: AMENDING ECOLOGY'S AUGUST 7, 2007 DRAFT RULE

~~(A) Within five calendar days of the date the order is issued for the first year; and~~

~~(B) By December 1<sup>st</sup> for each subsequent upcoming year.~~

### NEW SECTION

**WAC 173-406-140 Compliance with the Washington state mercury emissions budget beginning January 1, 2013~~8~~.** (1) Recordkeeping. Each month, the owner or operator of a mercury budget unit must evaluate the rolling twelve-month total mercury emissions from each unit and compare that to the tradable units recorded in the source's tradable unit account under WAC 173-406-110(3)(a)(i) or 173-406-130(4) for the calendar year.

(2) Tradable unit transfer deadline.

(a) Tradable units must be held in the source's tradable unit account prior to midnight, March 1st, of the year following the calendar year to be available to be deducted for compliance with their mercury budget emissions limitation for the prior year's calendar year.

(b) Requests that are correctly submitted prior to the March 1 tradable unit transfer deadline for the prior calendar year are considered to be held in the source's tradable unit account. These include:

(i) A tradable unit transfer request;

(ii) A request for tradable units from the temporary alternate emission standard account; and

(iii) The first request for a tradable unit allocation submitted under WAC 173-406-110 (2)(b)(ii)(B).

(3) Deductions for compliance. To determine whether the source meets its mercury budget emissions limitation for the calendar year, ecology will:

(a) Record any transfers in the tradable unit trading account that are correctly submitted; and

(b) Deduct one tradable unit from the source's tradable unit trading account for each ounce of the source's actual mercury emissions as determined by the source's fourth quarter emissions report required by 40 CFR 75.84(f). ~~If there are more ounces of mercury emissions than tradable units, the mercury budget source is subject to deductions for excess emissions as described in subsection (4) of this section.~~

(c) Ecology must complete (a) and (b) of this subsection after the March 1<sup>st</sup> tradable unit transfer deadline and before June 1<sup>st</sup> of each year.

~~(4) Deductions for excess emissions.~~

~~(a) If the mercury budget source has more ounces of mercury than tradable units, ecology must deduct from the source's tradable unit account two tradable units for each ounce of excess emissions. This amount must be taken from the number of tradable units allocated for the subsequent calendar year.~~

~~(b) Ecology will record in the appropriate tradable unit account all deductions from such an account.~~

~~(c) The tradable unit deduction required under (a) of this subsection does not relieve the owners and operators from the responsibility to comply with the requirements of this rule nor from any other resulting liabilities and/or legal remedies for failure to comply with any part of this rule.~~

### NEW SECTION

**WAC 173-406-150 In-state trading of tradable units.** (1) Scope of trading program:

(a) Participation in the trading program is limited to mercury budget units located in the state of Washington.

(b) A tradable unit is valid for one calendar year, provided that a mercury budget source's right to an allocation of tradable units under WAC 173-406-110(2) for future years may be traded. Transfer of the right to an

**TRANSALTA'S PROPOSAL: AMENDING ECOLOGY'S AUGUST 7, 2007 DRAFT RULE**

allocation of tradable units for future years becomes part of the buyer mercury budget source's annual allocation, in addition to the allocation under WAC 173-406-110(2), above, once the seller has shut down the mercury budget source or unit so that the seller no longer receives tradable units for that particular mercury budget unit or source or once the mercury budget unit or source has an enforceable permit limit lower than the limit in the allocation formula under WAC 173-406-110(2), above; PROVIDED, that the right to an allocation of future year tradable units must be transferred while the seller is operating or during the five consecutive years following shutdown in which tradable units continue to be recorded in its compliance account as provided by WAC 173-406-110(3)(d).

(c) Trading can occur at any time; however, a Report of Transfer of Mercury Tradable Units form must be submitted prior to the March 1st tradable unit transfer deadline to be valid for the previous calendar year.

(d) Banking of any unused tradable units for use in another calendar year is not allowed.

~~(e) The first year mercury budget sources may transfer a tradable unit is 2013.~~

~~(fe)~~ A tradable unit does not constitute a property right.

~~(gf)~~ RCW 70.94.850 requires that the number of tradable units able to be transferred from one mercury budget source to another must be less than the number of tradable units allocated to that source by ecology.

(2) Every allocation, transfer or deduction of a tradable unit to or from a mercury budget unit's tradable unit account is incorporated automatically in the source's mercury budget permit as required by 40 CFR 60.4120 through 60.4124.

(3) Responsibilities of ecology as "banker."

(a) The official banker of the Washington state in-state trading program is the department of ecology's air quality program. The buyer and seller authorize ecology to transfer and record tradable units after they reach agreement and have filed the correct form.

(b) Ecology must notify the applicable permitting authority regarding each tradable unit transfer to and from a mercury budget source under their jurisdiction.

(c) Recording tradable unit transfers.

(i) Within five calendar days of receipt of a Report of Transfer of Mercury Tradable Units form, ecology will record the request: PROVIDED, That:

(A) The transfer is correctly submitted under subsection (4) of this section; and

(+Bi) For trades of tradable units for the current year, Tthe seller has tradable units in their tradable unit account that are equal to or greater than the number of tradable units to be transferred; and/or

(Eii) For trades of the right to future tradable units, Tthe number of tradable units in a transfer with a future calendar year transfer date may not exceed the number determined from the formula applicable to the seller in WAC 173-406-110(2)(i) or (ii) minus the actual number that ecology will record for that mercury budget source under WAC 173-406-110(3)(a) or (b).

(+DB) A transfer submitted within five days of the end of February will be recorded by March 10. If March 10 is not a business day, the transfer will be recorded by the first business day thereafter.

(+iC) Ecology will not record a tradable unit transfer that fails to meet the requirements of (c)(i)(A), and (B) and (C) of this subsection.

(iii) A recorded transfer with a future for the following calendar year transfer date will be held in the seller's tradable unit account until December 1 to confirm that the seller's tradable unit account has sufficient tradable units for the transfer of the applicable following calendar year. ~~Subsection (3)(e)(i)(B) of this section must continue to be valid or the~~

**TRANSALTA'S PROPOSAL: AMENDING ECOLOGY'S AUGUST 7, 2007 DRAFT RULE**

~~transfer is denied.~~

(iv) Ecology will follow these procedures for reserving and recording tradable units or the right to tradable units that are transferred to a mercury budget unit or source that has not commenced commercial operation:

(A) For a transfer to a mercury budget source included a project for which the permitting agency determined has submitted a complete air permit application, Ecology will reserve the tradable units until the permitting agency takes final action on the application. The number of tradable units that will be reserved must not exceed the number determined under WAC 173-406-110(2)(a)(i) or (ii).

(B) For a transfer to a mercury budget source for which a permit is issued, Ecology will reserve the tradable units following the requirements for a new mercury budget unit in WAC 173-406-110(2)(b)(iii).

(C) Tradable units that have been reserved under (A) or (B) of this subsection automatically return to the Washington state mercury emissions budget, minus ten percent for each transaction, on the day the permit application is denied or the permit becomes invalid. Deductions of tradable units other than a whole number must be rounded to the nearest whole unit.

(iv) Each transfer will be posted to the agency web site. Information will include: The name of the buyer and seller; quantity of tradable units transferred; the year the transfer is to cover; the date of the posting; and the price paid per tradable unit.

(d) Denied transfer request.

(i) Ecology must notify the buyer and seller in writing within five business days of receipt of a transfer request that does not meet the requirements of this section. The notification must include:

(A) The decision not to record the transfer; and

(B) The reasons the request was denied.

(ii) A copy of the notification must also be sent to the applicable permitting authority.

(e) End of year mercury emission reconciliation.

(i) Ecology must compare the number in the fourth quarter mercury emissions report submitted to EPA by each mercury budget unit under 40 CFR 75.84(f) to the tradable units in their tradable unit bank account. The report is due within thirty days of the end of each December.

(ii) Ecology will notify the mercury budget unit owner and the permitting authority of the results of the reconciliation within ten calendar days of receiving the fourth quarter mercury emissions report.

(4) Responsibilities of the mercury budget owner.

(a) The owners and operators of each mercury budget source must hold tradable units in the source's tradable unit account for compliance deductions for the calendar year consistent with these conditions:

(i) The tradable units must be in the account as of the March 1st tradable unit transfer deadline; and

(ii) The number of tradable units available for deduction must not be less than the number of ounces of total mercury emissions from all mercury budget units at the source.

(b) A mercury budget unit becomes subject to the requirements under (a) of this subsection for the calendar year starting on the later of January 1, 2013~~8~~, or the following deadline and for each calendar year thereafter:

(i) For the owner or operator of a mercury budget unit that commences commercial operation before July 1, 2012~~7~~, by January 1, 2013~~8~~.

(ii) For the owner or operator of a mercury budget unit that commences commercial operation on or after July 1, 2012~~7~~, by the later of the following dates:

(A) January 1, 2013~~8~~; or

(B) Ninety unit operating days or one hundred eighty calendar days, whichever occurs first, after the date on which the unit commences commercial operation.

## TRANSALTA'S PROPOSAL: AMENDING ECOLOGY'S AUGUST 7, 2007 DRAFT RULE

(c) To be considered correctly submitted, each transfer request must comply with these requirements:

(i) The ecology form, Report of Transfer of Mercury Tradable Units described in subsection (5)(d) of this section, must be correctly completed;

(ii) The transfer request must be submitted prior to the midnight, March 1st tradable unit transfer deadline for the calendar year;

(iii) A transfer request to a project with a new mercury budget source may not be submitted until the permitting agency determines the project application is complete; and

(iv) The form may be submitted via U.S. Post, courier, or electronically to a location determined by ecology.

(d) Excess emissions requirements. If a mercury budget source emits mercury during any calendar year in excess of ~~the its mercury budget emissions limitation~~ tradable unit account, then:

~~(i) The owners and operators of each mercury budget unit must surrender the tradable units required for is subject deduction under WAC 173-406-140(4) and to pay any fines, penalties, or assessment or other enforcement actions comply with any other remedy imposed, for the same violations, under the federal Clean Air Act or applicable state law.~~

~~(ii) Each ounce of excess emissions and each day constitutes a separate violation of this part, the federal Clean Air Act, and applicable state law.~~

~~(iii) Ecology will record the deductions from the mercury budget source's tradable unit account on the agency's internet web site and notify the source and the source's permitting authority of this action.~~

~~(5) Transfer of tradable units between mercury budget units.~~

(a) Tradable units may be traded freely between mercury budget units located within the boundaries of the state of Washington.

(b) Tradable units may be traded between mercury budget units permitted by ecology, a permitting authority, or EFSEC.

(c) A tradable unit transfer is complete once ecology has recorded the transaction.

(d) The ecology form "Report of Transfer of Mercury Tradable Units" must include the following elements:

(i) The company name for both the seller and buyer;

(ii) ORIS ID number for both the seller and buyer;

(iii) Mailing address for both the seller and buyer;

(iv) The number of tradable units in the seller's account that are to be transferred to the buyer's account;

(v) The name and signature of the mercury authorized account representative who is designated by the certificate of representation required by 40 CFR 60.4112 for both the seller's and buyer's account and the date signed; ~~and~~

(vi) Price per tradable unit of mercury emissions; ~~and~~

(vii) the effective years of the tradable units, e.g., the current calendar year or a transfer of the right to future years.