Additional draft mercury rule revisions: Chapter 173-406 WAC

Ecology is adding provisions to the June 22, 2007 draft mercury rule that:

1. **Establish a step-down provision** for reducing the size of the state mercury emissions cap. Beginning in 2013, 10% of mercury credits that return to Ecology after distribution to a plant or reservation will be permanently set-aside as a public health measure. These credits will be unavailable for distribution or use by a power plant. Section 090(2) will be revised to reflect this change.

2. **Modify the transfer of in-state tradable units to allow permanent transfer** with the following constraints:

   - A tradable unit account could not exceed credits in excess of the number generated via the applicable Formula in Section 110(2).

   - When a tradable unit account has credits beyond this magic number, each excess credit reverts to the state.

   - New plants
     - ➢ For each transfer that includes distribution to a new project, the earliest date that Ecology will accept the transfer form is the day the permitting agency determines the project application is complete.

     - ➢ Ecology will reserve these tradable units until the permitting agency either issues or denies the air quality permit.
       - ✓ Issued permit: Reservation and allocation of tradable units follows the requirements for a new mercury budget unit in Section 110(2)(b)(ii).
       - ✓ Denied permit: Tradable units return to Washington state mercury emissions budget, minus a permanent reduction of 10 percent.

     - ➢ An on-going transfer becomes part of the buyer's plant baseline allocation issued under Section 110(2) once the seller's plant no longer receives a tradable unit allocation (meaning the seller's plant has stopped operating for over 5 years). -- Provided that the plant would otherwise be allocated these credits through Section 110(2).

3. **Extend the temporary alternate standard provisions to new sources.** The pool would be split divided into 170 lbs/yr for TransAlta, and 15 lbs/yr for 2 new plants. Unused credits in any pool could be used by a needy underserved plant.

Minor changes

4. Clarify that reservations of tradable units for a new plant will have an end date.

5. Clarify that a "new mercury budget unit or source" includes modifications to an existing source that trigger the applicability under the New Source Performance Standards. Modifications to comply with the mercury rule do not trigger this definition. The earlier definition, as it was based solely on the date of operation, is inconsistent with established air quality permitting requirements.

6. Clarify that under Section 110(3)(a), Ecology will process the recording of a tradable unit allocation in a tradable unit account by December 1st for the upcoming year in the following order:
   1) Record in-state transfer(s);
   2) Deduct for excess emissions required under Section 140(4) out of upcoming allowance; and
   3) Record the tradable unit allowance for the upcoming calendar year.

7. Clarify in Section 150(3) that Ecology must balance the mercury budget emissions limitation accounting for deductions for compliance and excess emissions by June 1st of each calendar year.

8. Clarify in Section 110(3)(c) that a plant that is in its fifth year of operating at less than 10% capacity will not receive an allocation at the December 1st allocation deadline for the upcoming year if the plant was operating at less than 10% capacity at the time. A plant may petition Ecology to receive its allocation if the plant's 4th quarter emissions report demonstrates that the plant operated at sufficient capacity.