

and affected units under the Acid Rain Program, pursuant to title IV of the Clean Air Act, 42 U.S.C. 7401, *et seq.*, as amended by Public Law 101-549 (November 15, 1990).

(b) *Scope.* The regulations under this part set forth certain generally applicable provisions under the Acid Rain Program. The regulations also set forth requirements for obtaining three types of Acid Rain permits, during Phases I and II, for which an affected source may apply: Acid Rain permits issued by the United States Environmental Protection Agency during Phase I; the Acid Rain portion of an operating permit issued by a State permitting authority during Phase II; and the Acid Rain portion of an operating permit issued by EPA when it is the permitting authority during Phase II. The requirements under this part supplement, and in some cases modify, the requirements under parts 70 and 71 of this chapter and other regulations implementing title V for approving and implementing State operating permit programs and for Federal issuance of operating permits under title V, as such requirements apply to affected sources under the Acid Rain Program.

[58 FR 3650, Jan. 11, 1993, as amended at 62 FR 55475, Oct. 24, 1997]

### § 72.2 Definitions.

The terms used in this part, in parts 73, 74, 75, 76, 77 and 78 of this chapter shall have the meanings set forth in the Act, including sections 302 and 402 of the Act, and in this section as follows:

*Account number* means the identification number given by the Administrator to each Allowance Tracking System account pursuant to § 73.31(d) of this chapter.

*Acid Rain compliance option* means one of the methods of compliance used by an affected unit under the Acid Rain Program as described in a compliance plan submitted and approved in accordance with subpart D of this part, part 74 of this chapter or part 76 of this chapter.

*Acid Rain emissions limitation* means:

(1) For purposes of sulfur dioxide emissions:

(i) The tonnage equivalent of the allowances authorized to be allocated to

an affected unit for use in a calendar year under section 404(a)(1), (a)(3), and (h) of the Act, or the basic Phase II allowance allocations authorized to be allocated to an affected unit for use in a calendar year, or the allowances authorized to be allocated to an opt-in source under section 410 of the Act for use in a calendar year;

(ii) As adjusted:

(A) By allowances allocated by the Administrator pursuant to section 403, section 405 (a)(2), (a)(3), (b)(2), (c)(4), (d)(3), and (h)(2), and section 406 of the Act;

(B) By allowances allocated by the Administrator pursuant to subpart D of this part; and thereafter

(C) By allowance transfers to or from the compliance subaccount for that unit that were recorded or properly submitted for recordation by the allowance transfer deadline as provided in § 73.35 of this chapter, after deductions and other adjustments are made pursuant to § 73.34(c) of this chapter; and

(2) For purposes of nitrogen oxides emissions, the applicable limitation under part 76 of this chapter.

*Acid Rain emissions reduction requirement* means a requirement under the Acid Rain Program to reduce the emissions of sulfur dioxide or nitrogen oxides from a unit to a specified level or by a specified percentage.

*Acid Rain permit or permit* means the legally binding written document or portion of such document, including any permit revisions, that is issued by a permitting authority under this part and specifies the Acid Rain Program requirements applicable to an affected source and to the owners and operators and the designated representative of the affected source or the affected unit.

*Acid Rain Program* means the national sulfur dioxide and nitrogen oxides air pollution control and emissions reduction program established in accordance with title IV of the Act, this part, and parts 73, 74, 75, 76, 77, and 78 of this chapter.

*Act* means the Clean Air Act, 42 U.S.C. 7401, *et seq.* as amended by Public Law No. 101-549 (November 15, 1990).

*Actual SO<sub>2</sub> emissions rate* means the annual average sulfur dioxide emissions rate for the unit (expressed in lb/mmBtu), for the specified calendar

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year; *provided* that, if the unit is listed in the NADB, the "1985 actual SO<sub>2</sub> emissions rate" for the unit shall be the rate specified by the Administrator in the NADB under the data field "SO<sub>2</sub>RTE."

*Add-on control* means a pollution reduction control technology that operates independent of the combustion process.

*Additional advance auction* means the auction of advance allowances that were offered the previous year for sale in an advance sale.

*Administrator* means the Administrator of the United States Environmental Protection Agency or the Administrator's duly authorized representative.

*Advance allowance* means an allowance that may be used for purposes of compliance with a unit's Acid Rain sulfur dioxide emissions limitation requirements beginning no earlier than seven years following the year in which the allowance is first offered for sale.

*Advance auction* means an auction of advance allowances.

*Advance sale* means a sale of advance allowances.

*Affected source* means a source that includes one or more affected units.

*Affected States* means any affected States as defined in part 71 of this chapter.

*Affected unit* means a unit that is subject to any Acid Rain emissions reduction requirement or Acid Rain emissions limitation under § 72.6 or part 74 of this chapter.

*Affiliate* shall have the meaning set forth in section 2(a)(11) of the Public Utility Holding Company Act of 1935, 15 U.S.C. 79b(a)(11), as of November 15, 1990.

*Allocate or allocation* means the initial crediting of an allowance by the Administrator to an Allowance Tracking System unit account or general account.

*Allowable SO<sub>2</sub> emissions rate* means the most stringent federally enforceable emissions limitation for sulfur dioxide (in lb/mmBtu) applicable to the unit or combustion source for the specified calendar year, or for such subsequent year as determined by the Administrator where such a limitation does not exist for the specified year; *provided*

that, if a Phase I or Phase II unit is listed in the NADB, the "1985 allowable SO<sub>2</sub> emissions rate" for the Phase I or Phase II unit shall be the rate specified by the Administrator in the NADB under the data field "1985 annualized boiler SO<sub>2</sub> emission limit."

*Allowance* means an authorization by the Administrator under the Acid Rain Program to emit up to one ton of sulfur dioxide during or after a specified calendar year.

*Allowance deduction, or deduct* when referring to allowances, means the permanent withdrawal of allowances by the Administrator from an Allowance Tracking System compliance sub-account, or future year subaccount, to account for the number of tons of SO<sub>2</sub> emissions from an affected unit for the calendar year, for tonnage emissions estimates calculated for periods of missing data as provided in part 75 of this chapter, or for any other allowance surrender obligations of the Acid Rain Program.

*Allowances held or hold allowances* means the allowances recorded by the Administrator, or submitted to the Administrator for recordation in accordance with § 73.50 of this chapter, in an Allowance Tracking System account.

*Allowance reserve* means any bank of allowances established by the Administrator in the Allowance Tracking System pursuant to sections 404(a)(2) (Phase I extension reserve), 404(g) (energy conservation and renewable energy reserve), or 416(b) (special allowance reserve) of the Act, and implemented in accordance with part 73, subpart B of this chapter.

*Allowance Tracking System or ATS* means the Acid Rain Program system by which the Administrator allocates, records, deducts, and tracks allowances.

*Allowance Tracking System account* means an account in the Allowance Tracking System established by the Administrator for purposes of allocating, holding, transferring, and using allowances.

*Allowance transfer deadline* means midnight of March 1 (or February 29 in any leap year) or, if such day is not a business day, midnight of the first

business day thereafter and is the deadline by which allowances may be submitted for recordation in an affected unit's compliance subaccount for the purposes of meeting the unit's Acid Rain emissions limitation requirements for sulfur dioxide for the previous calendar year.

*Alternative monitoring system* means a system or a component of a system designed to provide direct or indirect data of mass emissions per time period, pollutant concentrations, or volumetric flow, that is demonstrated to the Administrator as having the same precision, reliability, accessibility, and timeliness as the data provided by a certified CEMS or certified CEMS component in accordance with part 75 of this chapter.

*As-fired* means the taking of a fuel sample just prior to its introduction into the unit for combustion.

*Auction subaccount* means a subaccount in the Special Allowance Reserve, as specified in section 416(b) of the Act, which contains allowances to be sold at auction in the amount of 150,000 per year from calendar year 1995 through 1999, inclusive, and 200,000 per year for each year beginning in calendar year 2000, subject to the adjustments noted in the regulations in part 73, subpart E of this chapter.

*Authorized account representative* means a responsible natural person who is authorized, in accordance with part 73 of this chapter, to transfer and otherwise dispose of allowances held in an Allowance Tracking System general account; or, in the case of a unit account, the designated representative of the owners and operators of the affected unit.

*Automated data acquisition and handling system* means that component of the CEMS, COMS, or other emissions monitoring system approved by the Administrator for use in the Acid Rain Program, designed to interpret and convert individual output signals from pollutant concentration monitors, flow monitors, diluent gas monitors, moisture monitors, opacity monitors, and other component parts of the monitoring system to produce a continuous record of the measured parameters in the measurement units required by part 75 of this chapter.

*Award* means the conditional set-aside by the Administrator, based on the submission of an early ranking application pursuant to subpart D of this part, of an allowance from the Phase I extension reserve, for possible future allocation to a Phase I extension applicant's Allowance Tracking System unit account.

*Backup fuel* means a fuel for a unit where: (1) For purposes of the requirements of the monitoring exception of appendix E of part 75 of this chapter, the fuel provides less than 10.0 percent of the heat input to a unit during the three calendar years prior to certification testing for the primary fuel and the fuel provides less than 15.0 percent of the heat input to a unit in each of those three calendar years; or the Administrator approves the fuel as a backup fuel; and (2) For all other purposes under the Acid Rain Program, a fuel that is not the primary fuel (expressed in mmBtu) consumed by an affected unit for the applicable calendar year.

*Baseline* means the annual average quantity of fossil fuel consumed by a unit, measured in millions of British Thermal Units (expressed in mmBtu) for calendar years 1985 through 1987; *provided* that in the event that a unit is listed in the NADB, the baseline will be calculated for each unit-generator pair that includes the unit, and the unit's baseline will be the sum of such unit-generator baselines. The unit-generator baseline will be as provided in the NADB under the data field "BASE8587", as adjusted by the outage hours listed in the NADB under the data field "OUTAGEHR" in accordance with the following equation:

$$\text{Baseline} = \text{BASE8587} \times \{26280 / (26280 - \text{OUTAGEHR})\} \times \{36 / (36 - \text{months not on line})\} \times 10^6$$

"Months not on line" is the number of months during January 1985 through December 1987 prior to the commencement of firing for units that commenced firing in that period, i.e., the number of months, in that period, prior to the on-line month listed under the data field "BLRMNONL" and the on-line year listed in the data field "BLRYRONL" in the NADB.

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*Basic Phase II allowance allocations* means:

(1) For calendar years 2000 through 2009 inclusive, allocations of allowances made by the Administrator pursuant to section 403 and section 405 (b)(1), (3), and (4); (c)(1), (2), (3), and (5); (d)(1), (2), (4), and (5); (e); (f); (g)(1), (2), (3), (4), and (5); (h)(1); (i); and (j).

(2) For each calendar year beginning in 2010, allocations of allowances made by the Administrator pursuant to section 403 and section 405 (b)(1), (3), and (4); (c)(1), (2), (3), and (5); (d)(1), (2), (4), and (5); (e); (f); (g)(1), (2), (3), (4), and (5); (h)(1) and (3); (i); and (j).

*Bias* means systematic error, resulting in measurements that will be either consistently low or high relative to the reference value.

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

*Bypass operating quarter* means a calendar quarter during which emissions pass through a stack, duct or flue that bypasses add-on emission controls.

*Bypass stack* means any duct, stack, or conduit through which emissions from an affected unit may or do pass to the atmosphere, which either augments or substitutes for the principal stack exhaust system or ductwork during any portion of the unit's operation.

*Calibration error* means the difference between:

(1) The response of a gaseous monitor to a calibration gas and the known concentration of the calibration gas;

(2) The response of a flow monitor to a reference signal and the known value of the reference signal; or

(3) The response of a continuous opacity monitoring system to an attenuation filter and the known value of the filter after a stated period of operation during which no unscheduled maintenance, repair, or adjustment took place.

*Calibration gas* means:

(1) A standard reference material;

(2) A standard reference material-equivalent compressed gas primary reference material;

(3) A NIST traceable reference material;

(4) NIST/EPA-approved certified reference materials;

(5) A gas manufacturer's intermediate standard;

(6) An EPA protocol gas;

(7) Zero air material; or

(8) A research gas mixture.

*Capacity factor* means either: (1) the ratio of a unit's actual annual electric output (expressed in MWe-hr) to the unit's nameplate capacity times 8760 hours, or (2) the ratio of a unit's annual heat input (in million British thermal units or equivalent units of measure) to the unit's maximum design heat input (in million British thermal units per hour or equivalent units of measure) times 8,760 hours.

*CEMS precision or precision* as applied to the monitoring requirements of part 75 of this chapter, means the closeness of a measurement to the actual measured value expressed as the uncertainty associated with repeated measurements of the same sample or of different samples from the same process (e.g., the random error associated with simultaneous measurements of a process made by more than one instrument). A measurement technique is determined to have increasing "precision" as the variation among the repeated measurements decreases.

*Centroidal area* means a representational concentric area that is geometrically similar to the stack or duct cross section, and is not greater than 1 percent of the stack or duct cross-sectional area.

*Certificate of representation* means the completed and signed submission required by § 72.20, for certifying the appointment of a designated representative for an affected source or a group of identified affected sources authorized to represent the owners and operators of such source(s) and of the affected units at such source(s) with regard to matters under the Acid Rain Program.

*Certifying official*, for purposes of part 73 of this chapter, means:

(1) For a corporation, a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation;

(2) For partnership or sole proprietorship, a general partner or the proprietor, respectively; and

(3) For a local government entity or State, Federal, or other public agency, either a principal executive officer or ranking elected official.

*Coal* means all solid fuels classified as anthracite, bituminous, subbituminous, or lignite by the American Society for Testing and Materials Designation ASTM D388-92 "Standard Classification of Coals by Rank" (as incorporated by reference in § 72.13).

*Coal-derived fuel* means any fuel, whether in a solid, liquid, or gaseous state, produced by the mechanical, thermal, or chemical processing of coal (e.g., pulverized coal, coal refuse, liquified or gasified coal, washed coal, chemically cleaned coal, coal-oil mixtures, and coke).

*Coal-fired* means the combustion of fuel consisting of coal or any coal-derived fuel (except a coal-derived gaseous fuel that meets the definition of "very low sulfur fuel" in this section), alone or in combination with any other fuel, where:

(1) For purposes of the requirements of part 75 of this chapter, a unit is "coal-fired" independent of the percentage of coal or coal-derived fuel consumed in any calendar year (expressed in mmBtu); and

(2) For all other purposes under the Acid Rain Program, except for purposes of applying part 76 of this chapter, a unit is "coal-fired" if it uses coal or coal-derived fuel as its primary fuel (expressed in mmBtu); *provided* that, if the unit is listed in the NADB, the primary fuel is the fuel listed in the NADB under the data field "PRIMEFUEL".

*Cogeneration unit* means a unit that produces electric energy and useful thermal energy for industrial, commercial, or heating or cooling purposes, through the sequential use of the original fuel energy.

*Combustion source* means a stationary fossil fuel fired boiler, turbine, or internal combustion engine that has submitted or intends to submit an opt-in permit application under § 74.14 of this chapter to enter the Opt-in Program.

*Commence commercial operation* means to have begun to generate electricity

for sale, including the sale of test generation.

*Commence construction* means that an owner or operator has either undertaken a continuous program of construction or has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction.

*Commence operation* means to have begun any mechanical, chemical, or electronic process, including start-up of an emissions control technology or emissions monitor or of a unit's combustion chamber.

*Common pipe* means an oil or gas supply line through which the same type of fuel is distributed to two or more affected units.

*Common pipe operating time* means the portion of a clock hour during which fuel flows through a common pipe. The common pipe operating time, in hours, is expressed as a decimal fraction, with valid values ranging from 0.00 to 1.00.

*Common stack* means the exhaust of emissions from two or more units through a single flue.

*Compensating unit* means an affected unit that is not otherwise subject to Acid Rain emissions limitation or Acid Rain emissions reduction requirements during Phase I and that is designated as a Phase I unit in a reduced utilization plan under § 72.43; provided that an opt-in source shall not be a compensating unit.

*Compliance certification* means a submission to the Administrator or permitting authority, as appropriate, that is required by this part, by part 73, 74, 75, 76, 77, or 78 of this chapter, to report an affected source or an affected unit's compliance or non-compliance with a provision of the Acid Rain Program and that is signed and verified by the designated representative in accordance with subparts B and I of this part and the Acid Rain Program regulations generally.

*Compliance plan*, for the purposes of the Acid Rain Program, means the document submitted for an affected source in accordance with subpart C of this part or subpart E of part 74 of this chapter, or part 76 of this chapter, specifying the method(s) (including one or more Acid Rain compliance options as provided under subpart D of this

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part or subpart E of part 74 of this chapter, or part 76 of this chapter) by which each affected unit at the source will meet the applicable Acid Rain emissions limitation and Acid Rain emissions reduction requirements.

*Compliance subaccount* means the subaccount in an affected unit's Allowance Tracking System account, established pursuant to § 73.31 (a) or (b) of this chapter, in which are held, from the date that allowances for the current calendar year are recorded under § 73.34(a) until December 31, allowances available for use in the current calendar year and, after December 31 until the date that deductions are made under § 73.35(b), allowances available for use by the unit in the preceding calendar year, for the purpose of meeting the Acid Rain emissions limitation for sulfur dioxide.

*Compliance use date* means the first calendar year for which an allowance may be used for purposes of meeting a unit's Acid Rain emissions limitation for sulfur dioxide.

*Conditionally valid data* means data from a continuous monitoring system that are not quality-assured, but which may become quality-assured if certain conditions are met. Examples of data that may qualify as conditionally valid are: data recorded by an uncertified monitoring system prior to its initial certification; or data recorded by a certified monitoring system following a significant change to the system that may affect its ability to accurately measure and record emissions. A monitoring system must pass a probationary calibration error test, in accordance with section 2.1.1 of appendix B to part 75 of this chapter, to initiate the conditionally valid data status. In order for conditionally valid emission data to become quality-assured, one or more quality assurance tests or diagnostic tests must be passed within a specified time period in accordance with § 75.20(b)(3).

*Conservation Verification Protocol* means a methodology developed by the Administrator for calculating the kilowatt hour savings from energy conservation measures and improved unit efficiency measures for the purposes of title IV of the Act.

*Construction* means fabrication, erection, or installation of a unit or any portion of a unit.

*Consumer Price Index or CPI* means, for purposes of the Acid Rain Program, the U.S. Department of Labor, Bureau of Labor Statistics unadjusted Consumer Price Index for All Urban Consumers for the U.S. city average, for All Items on the latest reference base, or if such index is no longer published, such other index as the Administrator in his or her discretion determines meets the requirements of the Clean Air Act Amendments of 1990.

(1) *CPI (1990)* means the CPI for all urban consumers for the month of August 1989. The "CPI (1990)" is 124.6 (with 1982-1984=100). Beginning in the month for which a new reference base is established, "CPI (1990)" will be the CPI value for August 1989 on the new reference base.

(2) *CPI (year)* means the CPI for all urban consumers for the month of August of the previous year.

*Continuous emission monitoring system or CEMS* means the equipment required by part 75 of this chapter used 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 SO<sub>2</sub>, NO<sub>x</sub>, or CO<sub>2</sub> emissions or stack gas volumetric flow rate. The following are the principal types of continuous emission monitoring systems required under part 75 of this chapter. Sections 75.10 through 75.18 and § 75.71(a) of this chapter indicate which type(s) of CEMS is required for specific applications:

(1) A sulfur dioxide monitoring system, consisting of an SO<sub>2</sub> pollutant concentration monitor and an automated DAHS. An SO<sub>2</sub> monitoring system provides a permanent, continuous record of SO<sub>2</sub> emissions in units of parts per million (ppm);

(2) A flow monitoring system, consisting of a stack flow rate monitor and an automated DAHS. A flow monitoring system provides a permanent, continuous record of stack gas volumetric flow rate, in units of standard cubic feet per hour (scfh);

(3) A nitrogen oxides (NO<sub>x</sub>) emission rate (or NO<sub>x</sub>-diluent) monitoring system, consisting of a NO<sub>x</sub> pollutant concentration monitor, a diluent gas (CO<sub>2</sub> or O<sub>2</sub>) monitor, and an automated DAHS. A NO<sub>x</sub>-diluent monitoring system provides a permanent, continuous record of: NO<sub>x</sub> concentration in units of parts per million (ppm), diluent gas concentration in units of percent O<sub>2</sub> or CO<sub>2</sub> (% O<sub>2</sub> or CO<sub>2</sub>), and NO<sub>x</sub> emission rate in units of pounds per million British thermal units (lb/mmBtu);

(4) A nitrogen oxides concentration monitoring system, consisting of a NO<sub>x</sub> pollutant concentration monitor and an automated DAHS. A NO<sub>x</sub> concentration monitoring system provides a permanent, continuous record of NO<sub>x</sub> emissions in units of parts per million (ppm). This type of CEMS is used only in conjunction with a flow monitoring system to determine NO<sub>x</sub> mass emissions (in lb/hr) under subpart H of part 75 of this chapter;

(5) A carbon dioxide monitoring system, consisting of a CO<sub>2</sub> pollutant concentration monitor (or an oxygen monitor plus suitable mathematical equations from which the CO<sub>2</sub> concentration is derived) and the automated DAHS. A carbon dioxide monitoring system provides a permanent, continuous record of CO<sub>2</sub> emissions in units of percent CO<sub>2</sub> (% CO<sub>2</sub>); and

(6) A moisture monitoring system, as defined in § 75.11(b)(2) of this chapter. A moisture monitoring system provides a permanent, continuous record of the stack gas moisture content, in units of percent H<sub>2</sub>O (% H<sub>2</sub>O)

*Continuous opacity monitoring system or COMS* means the equipment required by part 75 of this chapter to sample, measure, analyze, and provide, with readings taken at least once every 6 minutes, a permanent record of opacity or transmittance. The following components are included in a continuous opacity monitoring system:

- (1) Opacity monitor; and
- (2) An automated data acquisition and handling system.

*Control unit* means a unit employing a qualifying Phase I technology in accordance with a Phase I extension plan under § 72.42.

*Current year subaccount* means the subaccount in an Allowance Tracking

System general account, established pursuant to § 73.31(c) of this chapter, in which are held allowances that may be transferred to a unit's compliance subaccount for use for the purpose of meeting the Acid Rain sulfur dioxide emissions limitation.

*Customer* means a purchaser of electricity not for the purposes of retransmission or resale. For generating rural electrical cooperatives, the customers of the distribution cooperatives served by the generating cooperative will be considered customers of the generating cooperative.

*Decisional body* means any EPA employee who is or may reasonably be expected to act in a decision-making role in a proceeding under part 78 of this chapter, including the Administrator, a member of the Environmental Appeals Board, and a Presiding Officer, and any staff of any such person who are participating in the decisional process.

*Demand-side measure* means a measure:

(1) To improve the efficiency of consumption of electricity from a utility by customers of the utility; or

(2) To reduce the amount of consumption of electricity from a utility by customers of the utility without increasing the use by the customer of fuel other than: Biomass (i.e., combustible energy-producing materials from biological sources, which include wood, plant residues, biological wastes, landfill gas, energy crops, and eligible components of municipal solid waste), solar, geothermal, or wind resources; or industrial waste gases where the party making the submission involved certifies that there is no net increase in sulfur dioxide emissions from the use of such gases. "Demand-side measure" includes the measures listed in part 73, appendix A, section 1 of this chapter.

*Designated representative* means a responsible natural person authorized by the owners and operators of an affected source and of all affected units at the source or by the owners and operators of a combustion source or process source, as evidenced by a certificate of representation submitted in accordance with subpart B of this part, to represent and legally bind each owner and operator, as a matter of Federal

law, in matters pertaining to the Acid Rain Program. Whenever the term "responsible official" is used in part 70 of this chapter, in any other regulations implementing title V of the Act, or in a State operating permit program, it shall be deemed to refer to the "designated representative" with regard to all matters under the Acid Rain Program.

*Desulfurization* refers to various procedures whereby sulfur is removed from petroleum during or apart from the refining process. "Desulfurization" does not include such processes as dilution or blending of low sulfur content diesel fuel with high sulfur content diesel fuel from a diesel refinery not eligible under 40 CFR part 73, subpart G.

*Diesel-fired unit* means, for the purposes of part 75 of this chapter, an oil-fired unit that combusts diesel fuel as its fuel oil, where the supplementary fuel, if any, shall be limited to natural gas or gaseous fuels containing no more sulfur than natural gas.

*Diesel fuel* means a low sulfur fuel oil of grades 1-D or 2-D, as defined by the American Society for Testing and Materials standard ASTM D975-91, "Standard Specification for Diesel Fuel Oils," grades 1-GT or 2-GT, as defined by ASTM D2880-90a, "Standard Specification for Gas Turbine Fuel Oils," or grades 1 or 2, as defined by ASTM D396-90a, "Standard Specification for Fuel Oils" (incorporated by reference in § 72.13).

*Diesel reciprocating engine unit* means an internal combustion engine that combusts only diesel fuel and that thereby generates electricity through the operation of pistons, rather than by heating steam or water.

*Diluent cap* value means a default value of percent CO<sub>2</sub> or O<sub>2</sub> which may be used to calculate the hourly NO<sub>x</sub> emission rate, CO<sub>2</sub> mass emission rate, or heat input rate, when the measured hourly average percent CO<sub>2</sub> is below the default value or when the measured hourly average percent O<sub>2</sub> is above the default value. The diluent cap values for boilers are 5.0 percent CO<sub>2</sub> and 14.0 percent O<sub>2</sub>. For combustion turbines, the diluent cap values are 1.0 percent CO<sub>2</sub> and 19.0 percent O<sub>2</sub>.

*Diluent gas* means a major gaseous constituent in a gaseous pollutant mix-

ture, which in the case of emissions from fossil fuel-fired units are carbon dioxide and oxygen.

*Diluent gas monitor* means that component of the continuous emission monitoring system that measures the diluent gas concentration in a unit's flue gas.

*Direct public utility ownership* means direct ownership of equipment and facilities by one or more corporations, the principal business of which is sale of electricity to the public at retail. Percentage ownership of such equipment and facilities shall be measured on the basis of book value.

*Direct Sale Subaccount* means a subaccount in the Special Allowance Reserve, as specified in section 416(b) of the Act, which contains Phase II allowances to be sold in the amount of 25,000 per year, from calendar year 1993 to 1999, inclusive, and of 50,000 per year for each year beginning in calendar year 2000, subject to the adjustments noted in the regulations at part 73, subpart E of this chapter.

*Dispatch* means the assignment within a dispatch system of generating levels to specific units and generators to effect the reliable and economical supply of electricity, as customer demand rises or falls, and includes:

(1) The operation of high-voltage lines, substations, and related equipment; and

(2) The scheduling of generation for the purpose of supplying electricity to other utilities over interconnecting transmission lines.

*Draft Acid Rain permit or draft permit* means the version of the Acid Rain permit, or the Acid Rain portion of an operating permit, that a permitting authority offers for public comment.

*Dual-fuel reciprocating engine unit* means an internal combustion engine that combusts any combination of natural gas and diesel fuel and that thereby generates electricity through the operation of pistons, rather than by heating steam or water.

*Eligible Indian tribe* means any eligible Indian tribe as defined in part 71 of this chapter.

*Emergency fuel* means either:

(1) For purposes of the requirements for a fuel flowmeter used in an excepted monitoring system under appendix D or E of part 75 of this chapter, the fuel identified by the designated representative in the unit's monitoring plan as the fuel which is combusted only during emergencies where the primary fuel is not available; or

(2) For purposes of the requirement for stack testing for an excepted monitoring system under appendix E of part 75 of this chapter, the fuel identified in a federally-enforceable permit for a plant and identified by the designated representative in the unit's monitoring plan as the fuel which is combusted only during emergencies where the primary fuel is not available.

*Emissions* means air pollutants exhausted from a unit or source into the atmosphere, as measured, recorded, and reported to the Administrator by the designated representative and as determined by the Administrator, in accordance with the emissions monitoring requirements of part 75 of this chapter.

*Environmental Appeals Board* means the three-member board established pursuant to § 1.25(e) of this chapter and authorized to hear appeals pursuant to part 78 of this chapter.

*EPA* means the United States Environmental Protection Agency.

*EPA protocol gas* means a calibration gas mixture prepared and analyzed according to section 2 of the "EPA Traceability Protocol for Assay and Certification of Gaseous Calibration Standards," September 1997, EPA-600/R-97/121 or such revised procedure as approved by the Administrator.

*EPA trial staff* means an employee of EPA, whether temporary or permanent, who has been designated by the Administrator to investigate, litigate, and present evidence, arguments, and positions of EPA in any evidentiary hearing under part 78 of this chapter. Any EPA or permitting authority employee, consultant, or contractor who is called as a witness in the evidentiary hearing by EPA trial staff shall be deemed to be "EPA trial staff".

*Equivalent diameter* means a value, calculated using the Equation 1-1 in section 12.2 of Method 1 in part 60, appendix A of this chapter, and used to

determine the upstream and downstream distances for locating CEMS or CEMS components in flues or stacks with rectangular cross sections.

*Ex parte communication* means any communication, written or oral, relating to the merits of an adjudicatory proceeding under part 78 of this chapter, that was not originally included or stated in the administrative record, in a pleading, or in an evidentiary hearing or oral argument under part 78 of this chapter, between the decisional body and any interested person outside EPA or any EPA trial staff. Ex parte communication shall not include:

(1) Communication between EPA employees other than between EPA trial staff and a member of the decisional body; or

(2) Communication between the decisional body and interested persons outside the Agency, or EPA trial staff, where all parties to the proceeding have received prior written notice of the proposed communication and are given an opportunity to be present and to participate therein.

*Excepted monitoring system* means a monitoring system that follows the procedures and requirements of § 75.19 of this chapter or of appendix D or E to part 75 for approved exceptions to the use of continuous emission monitoring systems.

*Excess emissions* means:

(1) Any tonnage of sulfur dioxide emitted by an affected unit during a calendar year that exceeds the Acid Rain emissions limitation for sulfur dioxide for the unit; and

(2) Any tonnage of nitrogen oxide emitted by an affected unit during a calendar year that exceeds the annual tonnage equivalent of the Acid Rain emissions limitation for nitrogen oxides applicable to the affected unit taking into account the unit's heat input for the year.

*Existing unit* means a unit (including a unit subject to section 111 of the Act) that commenced commercial operation before November 15, 1990 and that on or after November 15, 1990 served a generator with nameplate capacity of greater than 25 MWe. "Existing unit" does not include simple combustion turbines or any unit that on or after November 15, 1990 served only generators with a

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nameplate capacity of 25 MWe or less. Any "existing unit" that is modified, reconstructed, or repowered after November 15, 1990 shall continue to be an "existing unit."

*Facility* means any institutional, commercial, or industrial structure, installation, plant, source, or building.

*File* means to send or transmit a document, information, or correspondence to the official custody of the person specified to take possession in accordance with the applicable regulation. Compliance with any "filing" deadline shall be determined by the date that person receives the document, information, or correspondence.

*Flow meter accuracy* means the closeness of the measurement made by a flow meter to the reference value of the fuel flow being measured, expressed as the difference between the measurement and the reference value.

*Flow monitor* means a component of the continuous emission monitoring system that measures the volumetric flow of exhaust gas.

*Flue* means a conduit or duct through which gases or other matter are exhausted to the atmosphere.

*Flue gas desulfurization system* means a type of add-on emission control used to remove sulfur dioxide from flue gas, commonly referred to as a "scrubber."

*Forced outage* means the removal of a unit from service due to an unplanned component failure or other unplanned condition that requires such removal immediately or within 7 days from the onset of the unplanned component failure or condition. For purposes of §§ 72.43, 72.91, and 72.92, "forced outage" also includes a partial reduction in the heat input or electrical output due to an unplanned component failure or other unplanned condition that requires such reduction immediately or within 7 days from the onset of the unplanned component failure or condition.

*Fossil fuel* means natural gas, petroleum, coal, or any form of solid, liquid, or gaseous fuel derived from such material.

*Fossil fuel-fired* means the combustion of fossil fuel or any derivative of fossil fuel, alone or in combination with any other fuel, independent of the percent-

age of fossil fuel consumed in any calendar year (expressed in mmmBtu).

*Fuel flowmeter QA operating quarter* means a unit operating quarter in which the unit combusts the fuel measured by the fuel flowmeter for at least 168 unit operating hours (as defined in this section).

*Fuel flowmeter system* means an accepted monitoring system (as defined in this section) which provides a continuous record of the flow rate of fuel oil or gaseous fuel, in accordance with appendix D to part 75 of this chapter. A fuel flowmeter system consists of one or more fuel flowmeter components, all necessary auxiliary components (e.g., transmitters, transducers, etc.), and a data acquisition and handling system (DAHS).

*Fuel oil* means any petroleum-based fuel (including diesel fuel or petroleum derivatives such as oil tar) as defined by the American Society for Testing and Materials in ASTM D396-90a, "Standard Specification for Fuel Oils" (incorporated by reference in § 72.13), and any recycled or blended petroleum products or petroleum by-products used as a fuel whether in a liquid, solid or gaseous state; *provided* that for purposes of the monitoring requirements of part 75 of this chapter, "fuel oil" shall be limited to the petroleum-based fuels for which applicable ASTM methods are specified in Appendices D, E, or F of part 75 of this chapter.

*Fuel supply agreement* means a legally binding agreement between a new IPP or a firm associated with a new IPP and a fuel supplier that establishes the terms and conditions under which the fuel supplier commits to provide fuel to be delivered to the new IPP.

*Fuel usage time* means the portion of a clock hour during which a unit combusts a particular type of fuel. The fuel usage time, in hours, is expressed as a decimal fraction, with valid values ranging from 0.00 to 1.00.

*Future year subaccount* means a subaccount in an Allowance Tracking System account, established by the Administrator pursuant to § 73.31 of this chapter, in which allowances are held for one of the 30 years following the later of 1995 or a current calendar year following 1995.

*Gas-fired* means:

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(1) For all purposes under the Acid Rain Program, except for part 75 of this chapter, the combustion of:

(i) Natural gas or other gaseous fuel (including coal-derived gaseous fuel), for at least 90.0 percent of the unit's average annual heat input during the previous three calendar years and for at least 85.0 percent of the annual heat input in each of those calendar years; and

(ii) Any fuel, except coal or solid or liquid coal-derived fuel, for the remaining heat input, if any.

(2) For purposes of part 75 of this chapter, the combustion of:

(i) Natural gas or other gaseous fuel (including coal-derived gaseous fuel) for at least 90.0 percent of the unit's average annual heat input during the previous three calendar years and for at least 85.0 percent of the annual heat input in each of those calendar years; and

(ii) Fuel oil, for the remaining heat input, if any.

(3) For purposes of part 75 of this chapter, a unit may initially qualify as gas-fired if the designated representative demonstrates to the satisfaction of the Administrator that the requirements of paragraph (2) of this definition are met, or will in the future be met, through one of the following submissions:

(i) For a unit for which a monitoring plan has not been submitted under § 75.62 of this chapter, the designated representative submits either:

(A) Fuel usage data for the unit for the three calendar years immediately preceding the date of initial submission of the monitoring plan for the unit under § 75.62; or

(B) If a unit does not have fuel usage data for one or more of the three calendar years immediately preceding the date of initial submission of the monitoring plan for the unit under § 75.62, the unit's designated fuel usage; all available fuel usage data (including the percentage of the unit's heat input derived from the combustion of gaseous fuels), beginning with the date on which the unit commenced commercial operation; and the unit's projected fuel usage.

(ii) For a unit for which a monitoring plan has already been submitted under

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§ 75.62, that has not qualified as gas-fired under paragraph (3)(i) of this definition, and whose fuel usage changes, the designated representative submits either:

(A) Three calendar years of data following the change in the unit's fuel usage, showing that no less than 90.0 percent of the unit's average annual heat input during the previous three calendar years, and no less than 85.0 percent of the unit's annual heat input during any one of the previous three calendar years, is from the combustion of gaseous fuels and the remaining heat input is from the combustion of fuel oil; or

(B) A minimum of 720 hours of unit operating data following the change in the unit's fuel usage, showing that no less than 90.0 percent of the unit's heat input is from the combustion of gaseous fuels and the remaining heat input is from the combustion of fuel oil, and a statement that this changed pattern of fuel usage is considered permanent and is projected to continue for the foreseeable future.

(iii) If a unit qualifies as gas-fired under paragraph (3)(i) or (ii) of this definition, the unit is classified as gas-fired as of the date of the submission under such paragraph.

(4) For purposes of part 75 of this chapter, a unit that initially qualifies as gas-fired under paragraph (3)(i) or (ii) of this definition must meet the criteria in paragraph (2) of this definition each year in order to continue to qualify as gas-fired. If such a unit combusts only gaseous fuel and fuel oil but fails to meet such criteria for a given year, the unit no longer qualifies as gas-fired starting January 1 of the year after the first year for which the criteria are not met. If such a unit combusts fuel other than gaseous fuel or fuel oil and fails to meet such criteria in a given year, the unit no longer qualifies as gas-fired starting the day after the first day for which the criteria are not met. If a unit failing to meet the criteria in paragraph (2) of this definition initially qualified as a gas-fired unit under paragraph (3) of this definition, the unit may qualify as a gas-fired unit for a subsequent year only if the designated representative

submits the data specified in paragraph (3)(ii)(A) of this definition.

*Gas manufacturer's intermediate standard (GMIS)* means a compressed gas calibration standard that has been assayed and certified by direct comparison to a standard reference material (SRM), an SRM-equivalent PRM, a NIST/EPA-approved certified reference material (CRM), or a NIST traceable reference material (NTRM), in accordance with section 2.1.2.1 of the "EPA Traceability Protocol for Assay and Certification of Gaseous Calibration Standards," September 1997, EPA-600/R-97/121.

*Gaseous fuel* means a material that is in the gaseous state at standard atmospheric temperature and pressure conditions and that is combusted to produce heat.

*General account* means an Allowance Tracking System account that is not a unit account.

*Generator* means a device that produces electricity and was or would have been required to be reported as a generating unit pursuant to the United States Department of Energy Form 860 (1990 edition).

*Generator Output capacity* means the full-load continuous rating of a generator under specific conditions as designed by the manufacturer.

*Hearing clerk* means an EPA employee designated by the Administrator to establish a repository for all books, records, documents, and other materials relating to proceedings under part 78 of this chapter.

*Heat input rate* means the product (expressed in mmBtu/hr) of the gross calorific value of the fuel (expressed in mmBtu/mass of fuel) and the fuel feed rate into the combustion device (expressed in mass of fuel/hr) and does not include the heat derived from preheated combustion air, recirculated flue gases, or exhaust from other sources.

*Hour before* and *hour after* means, for purposes of the missing data substitution procedures of part 75 of this chapter, the quality-assured hourly SO<sub>2</sub> or CO<sub>2</sub> concentration, hourly flow rate, hourly NO<sub>x</sub> concentration, hourly moisture, hourly O<sub>2</sub> concentration, or hourly NO<sub>x</sub> emission rate (as applicable) recorded by a certified monitor

during the unit or stack operating hour immediately before and the unit or stack operating hour immediately after a missing data period.

*Hybrid generation facility* means a plant that generates electrical energy derived from a combination of qualified renewable energy (wind, solar, biomass, or geothermal) and one or more other energy resources.

*Independent auditor* means a professional engineer who is not an employee or agent of the source being audited.

*Independent Power Production Facility (IPP)* means a source that:

(1) Is nonrecourse project financed, as defined by the Secretary of Energy at 10 CFR part 715;

(2) Is used for the generation of electricity, eighty percent or more of which is sold at wholesale; and

(3) Is a new unit required to hold allowances under Title IV of the Clean Air Act; but only if direct public utility ownership of the equipment comprising the facility does not exceed 50 percent.

*Interested person* means any person who submitted written comments or testified at a public hearing on the draft permit or other matter subject to notice and comment under the Acid Rain Program or any person who submitted his or her name to the Administrator or the permitting authority, as appropriate, to be placed on a list of persons interested in such matter. The Administrator or the permitting authority may update the list of interested persons from time to time by requesting additional written indication of continued interest from the persons listed and may delete from the list the name of any person failing to respond as requested.

*Investor-owned utility* means a utility that is organized as a tax-paying for-profit business.

*Kilowatthour saved* or *savings* means the net savings in electricity use (expressed in Kwh) that result directly from a utility's energy conservation measures or programs.

*Least-cost plan* or *least-cost planning process* means an energy conservation and electric power planning methodology meeting the requirements of § 73.82(a)(4) of this chapter.

*Life-of-the-unit, firm power contractual arrangement* 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 generating 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 equal to or greater than 25 years or 70 percent of the economic useful life of the unit determined as of the time the unit was 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.

*Low mass emissions unit* means an affected unit that is "gas-fired" or "oil-fired" (as defined in this section), and that qualifies to use the low mass emissions excepted methodology in § 75.19 of this chapter.

*Mail or serve by mail* means to submit or serve by means other than personal service.

*Maximum potential hourly heat input* means an hourly heat input used for reporting purposes when a unit lacks certified monitors to report heat input. If the unit intends to use appendix D of part 75 of this chapter to report heat input, this value should be calculated, in accordance with part 75 of this chapter, using the maximum fuel flow rate and the maximum gross calorific value. If the unit intends to use a flow monitor and a diluent gas monitor, this value should be reported, in accordance with part 75 of this chapter, using the maximum potential flow rate and either the maximum carbon dioxide concentration (in percent CO<sub>2</sub>) or the minimum oxygen concentration (in percent O<sub>2</sub>).

*Maximum potential NO<sub>x</sub> emission rate or MER* means the emission rate of nitrogen oxides (in lb/mmBtu) calculated in accordance with section 3 of appendix F to part 75 of this chapter, using the maximum potential nitrogen ox-

ides concentration (MPC), as defined in section 2.1.2.1 of appendix A to part 75 of this chapter, and either the maximum oxygen concentration (in percent O<sub>2</sub>) or the minimum carbon dioxide concentration (in percent CO<sub>2</sub>) under all operating conditions of the unit except for unit start-up, shutdown, and upsets. The diluent cap value, as defined in this section, may be used in lieu of the maximum O<sub>2</sub> or minimum CO<sub>2</sub> concentration to calculate the MER. As a second alternative, when the NO<sub>x</sub> MPC is determined from emission test results or from historical CEM data, as described in section 2.1.2.1 of appendix A to part 75 of this chapter, quality-assured diluent gas (i.e., O<sub>2</sub> or CO<sub>2</sub>) data recorded concurrently with the MPC may be used to calculate the MER. For the purposes of §§ 75.4(f), 75.19(b)(3), and 75.33(c)(7) in part 75 of this chapter and section 2.5 in appendix E to part 75 of this chapter, the MER is specific to the type of fuel combusted in the unit.

*Maximum rated hourly heat input rate* means a unit-specific maximum hourly heat input rate (mmBtu/hr) which is the higher of the manufacturer's maximum rated hourly heat input rate or the highest observed hourly heat input rate.

*Missing data period* means the total number of consecutive hours during which any certified CEMS or approved alternative monitoring system is not providing quality-assured data, regardless of the reason.

*Monitor accuracy* means the closeness of the measurement made by a CEMS to the reference value of the emissions or volumetric flow being measured, expressed as the difference between the measurement and the reference value.

*Monitor operating hour* means any unit operating hour or portion thereof over which a CEMS, or other monitoring system approved by the Administrator under part 75 of this chapter is operating, regardless of the number of measurements (i.e., data points) collected during the hour or portion of an hour.

*Most stringent federally enforceable emissions limitation* means the most stringent emissions limitation for a given pollutant applicable to the unit,

which has been approved by the Administrator under the Act, whether in a State implementation plan approved pursuant to title I of the Act, a new source performance standard, or otherwise. To determine the most stringent emissions limitation for sulfur dioxide, each limitation shall be converted to lbs/mmBtu, using the appropriate conversion factors in appendix B of this part; *provided* that for determining the most stringent emissions limitation for sulfur dioxide for 1985, each limitation shall also be annualized, using the appropriate annualization factors in appendix A of this part.

*Multi-header generator* means a generator served by ductwork from more than one unit.

*Multi-header unit* means a unit with ductwork serving more than one generator.

*Multiple stack configuration* refers to an exhaust configuration in which the flue gases from a particular unit discharge to the atmosphere through two or more stacks. The term also refers to a unit for which emissions are monitored in two or more ducts leading to the exhaust stack, in lieu of monitoring at the stack.

*Nameplate capacity* means the maximum electrical generating output (expressed in MWe) that a generator can sustain over a specified period of time when not restricted by seasonal or other deratings, as listed in the NADB under the data field "NAMECAP" if the generator is listed in the NADB or as measured in accordance with the United States Department of Energy standards if the generator is not listed in the NADB.

*National Allowance Data Base* or *NADB* means the data base established by the Administrator under section 402(4)(C) of the Act.

*Natural gas* means a naturally occurring fluid mixture of hydrocarbons (e.g., methane, ethane, or propane) produced in geological formations beneath the Earth's surface that maintains a gaseous state at standard atmospheric temperature and pressure under ordinary conditions. Natural gas contains 20.0 grains or less of total sulfur per 100 standard cubic feet. Additionally, natural gas must either be composed of at least 70 percent methane by volume or

have a gross calorific value between 950 and 1100 Btu per standard cubic foot. Natural gas does not include the following gaseous fuels: landfill gas, digester gas, refinery gas, sour gas, blast furnace gas, coal-derived gas, producer gas, coke oven gas, or any gaseous fuel produced in a process which might result in highly variable sulfur content or heating value.

*NERC region* means the North American Electric Reliability Council region or, if any, subregion.

*Net income neutrality* means, in the case of energy conservation measures undertaken by an investor-owned utility whose rates are regulated by a State utility regulatory authority, rates and charges established by the State utility regulatory authority that ensure that the net income earned by the utility on its State-jurisdictional equity investment will be *no lower* as a consequence of its expenditures on cost-effective qualified energy conservation measures and any associated lost sales than it would have been had the utility not made such expenditures, or that the State utility regulatory authority has implemented a ratemaking approach designed to meet this objective.

*New independent power production facility* or *new IPP* means a unit that:

- (1) Commences commercial operation on or after November 15, 1990;
- (2) Is nonrecourse project-financed, as defined in 10 CFR part 715;
- (3) Sells 80% of electricity generated at wholesale; and
- (4) Does not sell electricity to any affiliate or, if it does, demonstrates it cannot obtain the required allowances from such an affiliate.

*New unit* means a unit that commences commercial operation on or after November 15, 1990, including any such unit that serves a generator with a nameplate capacity of 25 MWe or less or that is a simple combustion turbine.

*Ninetieth (90th) percentile* means a value that would divide an ordered set of increasing values so that at least 90 percent are less than or equal to the value and at least 10 percent are greater than or equal to the value.

*Ninety-fifth (95th) percentile* means a value that would divide an ordered set of increasing values so that at least 95

percent of the set are less than or equal to the value and at least 5 percent are greater than or equal to the value.

*NIST/EPA-approved certified reference material or NIST/EPA-approved CRM* means a calibration gas mixture that has been approved by EPA and the National Institutes of Standards and Technologies (NIST) as having specific known chemical or physical property values certified by a technically valid procedure as evidenced by a certificate or other documentation issued by a certifying standard-setting body.

*NIST traceable reference material (NTRM)* means a calibration gas mixture tested by and certified by the National Institutes of Standards and Technologies (NIST) to have a certain specified concentration of gases. NTRMs may have different concentrations from those of standard reference materials.

*Offset plan* means a plan pursuant to part 77 of this chapter for offsetting excess emissions of sulfur dioxide that have occurred at an affected unit in any calendar year.

*Oil-fired* means:

(1) For all purposes under the Acid Rain Program, except part 75 of this chapter, the combustion of:

(i) Fuel oil for more than 10.0 percent of the average annual heat input during the previous three calendar years or for more than 15.0 percent of the annual heat input during any one of those calendar years; and

(ii) Any solid, liquid or gaseous fuel (including coal-derived gaseous fuel), other than coal or any other coal-derived solid or liquid fuel, for the remaining heat input, if any.

(2) For purposes of part 75 of this chapter, combustion of only fuel oil and gaseous fuels, provided that the unit involved does not meet the definition of gas-fired.

*Opacity* means the degree to which emissions reduce the transmission of light and obscure the view of an object in the background.

*Operating* when referring to a combustion or process source seeking entry into the Opt-in Program, means that the source had documented consumption of fuel input for more than 876 hours in the 6 months immediately preceding the submission of a combustion

source's opt-in application under § 74.16(a) of this chapter.

*Operating permit* means a permit issued under part 70 of this chapter and any other regulations implementing title V of the Act.

*Opt in or opt into* means to elect to become an affected unit under the Acid Rain Program through the issuance of the final effective opt-in permit under § 74.14 of this chapter.

*Opt-in permit* means the legally binding written document that is contained within the Acid Rain permit and sets forth the requirements under part 74 of this chapter for a combustion source or a process source that opts into the Acid Rain Program.

*Opt-in source* means a combustion source or process source that has elected to become an affected unit under the Acid Rain Program and whose opt-in permit has been issued and is in effect.

*Out-of-control period* means any period:

(1) Beginning with the hour corresponding to the completion of a daily calibration error, linearity check, or quality assurance audit that indicates that the instrument is not measuring and recording within the applicable performance specifications; and

(2) Ending with the hour corresponding to the completion of an additional calibration error, linearity check, or quality assurance audit following corrective action that demonstrates that the instrument is measuring and recording within the applicable performance specifications.

*Oversubscription payment deadline* means 30 calendar days prior to the allowance transfer deadline.

*Owner* means any of the following persons:

(1) Any holder of any portion of the legal or equitable title in an affected unit or in a combustion source or process source; or

(2) Any holder of a leasehold interest in an affected unit or in a combustion source or process source; or

(3) Any purchaser of power from an affected unit or from a combustion source or process source under a life-of-the-unit, firm power contractual arrangement as the term is defined herein and used in section 408(i) of the Act. However, unless expressly provided for

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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, upon the revenues or income from the affected unit; or

(4) With respect to any Allowance Tracking System general account, any person identified in the submission required by § 73.31(c) of this chapter that is subject to the binding agreement for the authorized account representative to represent that person's ownership interest with respect to allowances.

*Owner or operator* means any person who is an owner or who operates, controls, or supervises an affected unit, affected source, combustion source, or process source and shall include, but not be limited to, any holding company, utility system, or plant manager of an affected unit, affected source, combustion source, or process source.

*Ozone nonattainment area* means an area designated as a nonattainment area for ozone under subpart C of part 81 of this chapter.

*Ozone season* means the period of time beginning May 1 of a year and ending on September 30 of the same year, inclusive.

*Ozone transport region* means the ozone transport region designated under Section 184 of the Act.

*Peaking unit* means:

(1) A unit that has:

(i) An average capacity factor of no more than 10.0 percent during the previous three calendar years and

(ii) A capacity factor of no more than 20.0 percent in each of those calendar years.

(2) For purposes of part 75 of this chapter, a unit may initially qualify as a peaking unit if the designated representative demonstrates to the satisfaction of the Administrator that the requirements of paragraph (1) of this definition are met, or will in the future be met, through one of the following submissions:

(i) For a unit for which a monitoring plan has not been submitted under § 75.62, the designated representative submits either:

(A) Capacity factor data for the unit for the three calendar years immediately preceding the date of initial

submission of the monitoring plan for the unit under § 75.62; or

(B) If a unit does not have capacity factor data for one or more of the three calendar years immediately preceding the date of initial submission of the monitoring plan for the unit under § 75.62, all available capacity factor data, beginning with the date on which the unit commenced commercial operation; and projected capacity factor data.

(ii) For a unit for which a monitoring plan has already been submitted under § 75.62, that has not qualified as a peaking unit under paragraph (2)(i) of this definition, and where capacity factor changes, the designated representative submits either:

(A) Three calendar years of data following the change in the unit's capacity factor showing an average capacity factor of no more than 10.0 percent during the three previous calendar years and a capacity factor of no more than 20.0 percent in each of those calendar years; or

(B) One calendar year of data following the change in the unit's capacity factor showing a capacity factor of no more than 10.0 percent and a statement that this changed pattern of operation resulting in a capacity factor less than 10.0 percent is considered permanent and is projected to continue for the foreseeable future.

(3) For purposes of part 75 of this chapter, a unit that initially qualifies as a peaking unit must meet the criteria in paragraph (1) of this definition each year in order to continue to qualify as a peaking unit. If such a unit fails to meet such criteria for a given year, the unit no longer qualifies as a peaking unit starting January 1 of the year after the year for which the criteria are not met. If a unit failing to meet the criteria in paragraph (1) of this definition initially qualified as a peaking unit under paragraph (2) of this definition, the unit may qualify as a peaking unit for a subsequent year only if the designated representative submits the data specified in paragraph (2)(ii)(A) of this definition.

(4) A unit required to comply with the provisions of subpart H of part 75 of this chapter, under a State or Federal

NO<sub>x</sub> mass emissions reduction program, may, pursuant to § 75.74(c)(11) in part 75 of this chapter, qualify as a peaking unit on an ozone season basis rather than an annual basis, if the owner or operator reports NO<sub>x</sub> mass emissions and heat input data only during the ozone season.

*Permit revision* means a permit modification, fast track modification, administrative permit amendment, or automatic permit amendment, as provided in subpart H of this part.

*Permitting authority* means either:

(1) When the Administrator is responsible for administering Acid Rain permits under subpart G of this part, the Administrator or a delegatee agency authorized by the Administrator; or

(2) The State air pollution control agency, local agency, other State agency, or other agency authorized by the Administrator to administer Acid Rain permits under subpart G of this part and part 70 of this chapter.

*Person* includes an individual, corporation, partnership, association, State, municipality, political subdivision of a State, any agency, department, or instrumentality of the United States, and any officer, agent, or employee thereof.

*Phase I* means the Acid Rain Program period beginning January 1, 1995 and ending December 31, 1999.

*Phase I unit* means any affected unit, except an affected unit under part 74 of this chapter, that is subject to an Acid Rain emissions reduction requirement or Acid Rain emissions limitation beginning in Phase I; or any unit exempt under § 72.8 that, but for such exemption, would be subject to an Acid Rain emissions reduction requirement or Acid Rain emissions limitation beginning in Phase I.

*Phase II* means the Acid Rain Program period beginning January 1, 2000, and continuing into the future thereafter.

*Phase II unit* means any affected unit, except an affected unit under part 74 of this chapter, that is subject to an Acid Rain emissions reduction requirement or Acid Rain emissions limitation during Phase II only.

*Pipeline natural gas* means a naturally occurring fluid mixture of hydrocarbons (e.g., methane, ethane, or pro-

pane) produced in geological formations beneath the Earth's surface that maintains a gaseous state at standard atmospheric temperature and pressure under ordinary conditions, and which is provided by a supplier through a pipeline. Pipeline natural gas contains 0.5 grains or less of total sulfur per 100 standard cubic feet. Additionally, pipeline natural gas must either be composed of at least 70 percent methane by volume or have a gross calorific value between 950 and 1100 Btu per standard cubic foot.

*Pollutant concentration monitor* means that component of the continuous emission monitoring system that measures the concentration of a pollutant in a unit's flue gas.

*Potential electrical output capacity* means the MWe capacity rating for the units which shall be equal to 33 percent of the maximum design heat input capacity of the steam generating unit, as calculated according to appendix D of part 72.

*Power distribution system* means the portion of an electricity grid owned or operated by a utility that is dedicated to delivering electric energy to customers.

*Power purchase commitment* means a commitment or obligation of a utility to purchase electric power from a facility pursuant to:

- (1) A power sales agreement;
- (2) A state regulatory authority order requiring a utility to:
  - (i) Enter into a power sales agreement with the facility;
  - (ii) Purchase from the facility; or
  - (iii) Enter into arbitration concerning the facility for the purpose of establishing terms and conditions of the utility's purchase of power;
- (3) A letter of intent or similar instrument committing to purchase power (actual electrical output or generator output capacity) from the source at a previously offered or lower price and a power sales agreement applicable to the source is executed within the time frame established by the terms of the letter of intent but no later than November 15, 1993 or, where the letter of intent does not specify a time frame, a power sale agreement applicable to the source is executed on or before November 15, 1993; or

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(4) A utility competitive bid solicitation that has resulted in the selection of the qualifying facility or independent power production facility as the winning bidder.

*Power sales agreement* is a legally binding agreement between a QF, IPP, new IPP, or firm associated with such facility and a regulated electric utility that establishes the terms and conditions for the sale of power from the facility to the utility.

*Presiding Officer* means an Administrative Law Judge appointed under 5 U.S.C. 3105 and designated to preside at a hearing in an appeal under part 78 of this chapter or an EPA lawyer designated to preside at any such hearing under § 78.6(b)(3)(ii) of this chapter.

*Primary fuel or primary fuel supply* means the main fuel type (expressed in mmBtu) consumed by an affected unit for the applicable calendar year.

*Probationary calibration error test* means an on-line calibration error test performed in accordance with section 2.1.1 of appendix B to part 75 of this chapter that is used to initiate a conditionally valid data period.

*Proposed Acid Rain permit or proposed permit* means, in the case of a State operating permit program, the version of an Acid Rain permit that the permitting authority submits to the Administrator after the public comment period, but prior to completion of the EPA permit review period, as provided for in part 70 of this chapter.

*QA operating quarter* means a calendar quarter in which there are at least 168 unit operating hours (as defined in this section) or, for a common stack or bypass stack, a calendar quarter in which there are at least 168 stack operating hours (as defined in this section).

*Qualifying facility (QF)* means a "qualifying small power production facility" within the meaning of section 3(17)(C) of the Federal Power Act or a "qualifying cogeneration facility" within the meaning of section 3(18)(B) of the Federal Power Act.

*Qualifying Phase I technology* means a technological system of continuous emission reduction that is demonstrated to achieve a ninety (90) percent (or greater) reduction in emissions of sulfur dioxide from the emissions

that would have resulted from the use of fossil fuels that were not subject to treatment prior to combustion, as provided in § 72.42.

*Qualifying power purchase commitment* means a power purchase commitment in effect as of November 15, 1990 without regard to changes to that commitment so long as:

(1) The identity of the electric output purchaser; or

(2) The identity of the steam purchaser and the location of the facility, remain unchanged as of the date the facility commences commercial operation; and

(3) The terms and conditions of the power purchase commitment are not changed in such a way as to allow the costs of compliance with the Acid Rain Program to be shifted to the purchaser.

*Qualifying repowering technology* means:

(1) Replacement of an existing coal-fired boiler with one of the following clean coal technologies: Atmospheric or pressurized fluidized bed combustion, integrated gasification combined cycle, magnetohydrodynamics, direct and indirect coal-fired turbines, integrated gasification fuel cells, or as determined by the Administrator, in consultation with the Secretary of Energy, a derivative of one or more of these technologies, and any other 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 the date of enactment of the Clean Air Act Amendments of 1990; or

(2) Any oil- or gas-fired unit that has been awarded clean coal technology demonstration funding as of January 1, 1991, by the Department of Energy.

*Quality-assured monitor operating hour* means any unit operating hour or portion thereof over which a certified CEMS, or other monitoring system approved by the Administrator under part 75 of this chapter, is operating:

(1) Within the performance specifications set forth in part 75, appendix A of this chapter and the quality assurance/quality control procedures set forth in part 75, appendix B of this chapter,

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without unscheduled maintenance, repair, or adjustment; and

(2) In accordance with § 75.10(d), (e), and (f) of this chapter.

*Receive or receipt of* means the date the Administrator or a permitting authority comes into possession of information or correspondence (whether sent in writing or by authorized electronic transmission), as indicated in an official correspondence log, or by a notation made on the information or correspondence, by the Administrator or the permitting authority in the regular course of business.

*Recordation, record, or recorded* means, with regard to allowances, the transfer of allowances by the Administrator from one Allowance Tracking System account or subaccount to another.

*Reduced utilization* means a reduction, during any calendar year in Phase I, in the heat input (expressed in mmBtu for the calendar year) at a Phase I unit below the unit's baseline, where such reduction subjects the unit to the requirement to submit a reduced utilization plan under § 72.43; or, in the case of an opt-in source, means a reduction in the average utilization, as specified in § 74.44 of this chapter, of an opt-in source below the opt-in source's baseline.

*Reference method* means any direct test method of sampling and analyzing for an air pollutant as specified in part 60, appendix A of this chapter.

*Reference value or reference signal* means the known concentration of a calibration gas, the known value of an electronic calibration signal, or the known value of any other measurement standard approved by the Administrator, assumed to be the true value for the pollutant or diluent concentration or volumetric flow being measured.

*Relative accuracy* means a statistic designed to provide a measure of the systematic and random errors associated with data from continuous emission monitoring systems, and is expressed as the absolute mean difference between the pollutant or moisture concentration or volumetric flow measured by the pollutant concentration or flow monitor or moisture monitor and the value determined by the applicable reference method(s) plus the 2.5 percent error confidence coefficient of a series

of tests divided by the mean of the reference method tests in accordance with part 75 of this chapter.

*Replacement unit* means an affected unit replacing the thermal energy provided by an opt-in source, where both the affected unit and the opt-in source are governed by a thermal energy plan.

*Research gas material (RGM)* means a calibration gas mixture developed by agreement of a requestor and the National Institutes for Standards and Technologies (NIST) that NIST analyzes and certifies as "NIST traceable." RGMs may have concentrations different from those of standard reference materials.

*Research gas mixture (RGM)* means a calibration gas mixture developed by agreement of a requestor and NIST that NIST analyzes and certifies as "NIST traceable." RGMs may have concentrations different from those of standard reference materials.

*Schedule of compliance* means an enforceable sequence of actions, measures, or operations designed to achieve or maintain compliance, or correct non-compliance, with an applicable requirement of the Acid Rain Program, including any applicable Acid Rain permit requirement.

*Secretary of Energy* means the Secretary of the United States Department of Energy or the Secretary's duly authorized representative.

*Serial number* means, when referring to allowances, the unique identification number assigned to each allowance by the Administrator, pursuant to § 73.34(d) of this chapter.

*Simple combustion turbine* means a unit that is a rotary engine driven by a gas under pressure that is created by the combustion of any fuel. This term includes combined cycle units without auxiliary firing. This term excludes combined cycle units with auxiliary firing, unless the unit did not use the auxiliary firing from 1985 through 1987 and does not use auxiliary firing at any time after November 15, 1990.

*Site lease*, as used in part 73, subpart E of this chapter, means a legally-binding agreement signed between a new IPP or a firm associated with a new IPP and a site owner that establishes the terms and conditions under which the new IPP or the firm associated

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with the new IPP has the binding right to utilize a specific site for the purposes of operating or constructing the new IPP.

*Small diesel refinery* means a domestic motor diesel fuel refinery or portion of a refinery that, as an annual average of calendar years 1988 through 1990 and as reported to the Department of Energy on Form 810, had bona fide crude oil throughput less than 18,250,000 barrels per year, and the refinery or portion of a refinery is owned or controlled by a refiner with a total combined bona fide crude oil throughput of less than 50,187,500 barrels per year.

*Solid waste incinerator* means a source as defined in section 129(g)(1) of the Act.

*Source* means any governmental, institutional, commercial, or industrial structure, installation, plant, building, or facility that emits or has the potential to emit any regulated air pollutant under the Act. For purposes of section 502(c) of the Act, a "source", including a "source" with multiple units, shall be considered a single "facility."

*Span* means the highest pollutant or diluent concentration or flow rate that a monitor component is required to be capable of measuring under part 75 of this chapter.

*Spot allowance* means an allowance that may be used for purposes of compliance with a unit's Acid Rain sulfur dioxide emissions limitation requirements beginning in the year in which the allowance is offered for sale.

*Spot auction* means an auction of a spot allowance.

*Spot sale* means a sale of a spot allowance.

*Stack* means a structure that includes one or more flues and the housing for the flues.

*Stack operating hour* means a clock hour during which flue gases flow through a particular stack or duct (either for the entire hour or for part of the hour) while the associated unit(s) are combusting fuel.

*Stack operating time* means the portion of a clock hour during which flue gases flow through a particular stack or duct while the associated unit(s) are combusting fuel. The stack operating time, in hours, is expressed as a dec-

imal fraction, with valid values ranging from 0.00 to 1.00.

*Standard conditions* means 68 °F at 1 atm (29.92 in. of mercury).

*Standard reference material* or *SRM* means a calibration gas mixture issued and certified by NIST as having specific known chemical or physical property values.

*Standard reference material-equivalent compressed gas primary reference material (SRM-equivalent PRM)* means those gas mixtures listed in a declaration of equivalence in accordance with section 2.1.2 of the "EPA Traceability Protocol for Assay and Certification of Gaseous Calibration Standards," September 1997, EPA-600/R-97/121.

*State* means one of the 48 contiguous States and the District of Columbia, any non-federal authorities in or including such States or the District of Columbia (including local agencies, interstate associations, and State-wide agencies), and any eligible Indian tribe in an area in such State or the District of Columbia. The term "State" shall have its conventional meaning where such meaning is clear from the context.

*State operating permit program* means an operating permit program that the Administrator has approved under part 70 of this chapter.

*Stationary gas turbine* means a turbine that is not self-propelled and that combusts natural gas, other gaseous fuel with a total sulfur content no greater than the total sulfur content of natural gas, or fuel oil in order to heat inlet combustion air and thereby turn a turbine in addition to or instead of producing steam or heating water.

*Steam sales agreement* is a legally binding agreement between a QF, IPP, new IPP, or firm associated with such facility and an industrial or commercial establishment requiring steam that establishes the terms and conditions under which the facility will supply steam to the establishment.

*Submit or serve* means to send or transmit a document, information, or correspondence to the person specified in accordance with the applicable regulation:

- (1) In person;
  - (2) By United States Postal Service;
- or

(3) By other equivalent means of dispatch, or transmission, and delivery. Compliance with any "submission", "service", or "mailing" deadline shall be determined by the date of dispatch, transmission, or mailing and not the date of receipt.

*Substitute data* means emissions or volumetric flow data provided to assure 100 percent recording and reporting of emissions when all or part of the continuous emission monitoring system is not functional or is operating outside applicable performance specifications.

*Substitution unit* means an affected unit, other than a unit under section 410 of the Act, that is designated as a Phase I unit in a substitution plan under § 72.41.

*Sulfur-free generation* means the generation of electricity by a process that does not have any emissions of sulfur dioxide, including hydroelectric, nuclear, solar, or wind generation. A "sulfur-free generator" is a generator that is located in one of the 48 contiguous States or the District of Columbia and produces "sulfur-free generation."

*Supply-side measure* means a measure to improve the efficiency of the generation, transmission, or distribution of electricity, implemented by a utility in connection with its operations or facilities to provide electricity to its customers, and includes the measures set forth in part 73, appendix A, section 2 of this chapter.

*Thermal energy* means the thermal output produced by a combustion source used directly as part of a manufacturing process but not used to produce electricity.

*Ton or tonnage* means any "short ton" (i.e., 2,000 pounds). For the purpose of determining compliance with the Acid Rain emissions limitations and reduction requirements, total tons for a year shall be calculated as the sum of all recorded hourly emissions (or the tonnage equivalent of the recorded hourly emissions rates) in accordance with part 75 of this chapter, with any remaining fraction of a ton equal to or greater than 0.50 ton deemed to equal one ton and any fraction of a ton less than 0.50 ton deemed not to equal any ton.

*Total planned net output capacity* means the planned generator output capacity, excluding that portion of the electrical power which is designed to be used at the power production facility, as specified under one or more qualifying power purchase commitments or contemporaneous documents as of November 15, 1990; "Total installed net output capacity" shall be the generator output capacity, excluding that portion of the electrical power actually used at the power production facility, as installed.

*Transfer unit* means a Phase I unit that transfers all or part of its Phase I emission reduction obligations to a control unit designated pursuant to a Phase I extension plan under § 72.42.

*Underutilization* means a reduction, during any calendar year in Phase I, of the heat input (expressed in mmBtu for the calendar year) at a Phase I unit below the unit's baseline.

*Unit* means a fossil fuel-fired combustion device.

*Unit account* means an Allowance Tracking System account, established by the Administrator for an affected unit pursuant to § 73.31 (a) or (b) of this chapter.

*Unit load* means the total (i.e., gross) output of a unit or source in any calendar year (or other specified time period) produced by combusting a given heat input of fuel, expressed in terms of:

(1) The total electrical generation (MWe) for use within the plant and for sale; or

(2) In the case of a unit or source that uses part of its heat input for purposes other than electrical generation, the total steam pressure (psia) produced by the unit or source.

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

*Unit operating hour* means a clock hour during which a unit combusts any fuel, either for part of the hour or for the entire hour.

*Unit operating quarter* means a calendar quarter in which a unit combusts any fuel.

*Unit operating time* means the portion of a clock hour during which a unit combusts any fuel. The unit operating

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time, in hours, is expressed as a decimal fraction, with valid values ranging from 0.00 to 1.00.

*Utility* means any person that sells electricity.

*Utility competitive bid solicitation* is a public request from a regulated utility for offers to the utility for meeting future generating needs. A qualifying facility, independent power production facility, or new IPP may be regarded as having been "selected" in such solicitation if the utility has named the facility as a project with which the utility intends to negotiate a power sales agreement.

*Utility regulatory authority* means an authority, board, commission, or other entity (limited to the local-, State-, or federal-level, whenever so specified) responsible for overseeing the business operations of utilities located within its jurisdiction, including, but not limited to, utility rates and charges to customers.

*Utility system* means all interconnected units and generators operated by the same utility operating company.

*Utility unit* means a unit owned or operated by a utility:

(1) That serves a generator in any State that produces electricity for sale, or

(2) That during 1985, served a generator in any State that produced electricity for sale.

(3) Notwithstanding paragraphs (1) and (2) of this definition, a unit that was in operation during 1985, but did not serve a generator that produced electricity for sale during 1985, and did not commence commercial operation on or after November 15, 1990 is not a utility unit for purposes of the Acid Rain Program.

(4) Notwithstanding paragraphs (1) and (2) of this definition, a unit that cogenerates steam and electricity is not a utility unit for purposes of the Acid Rain Program, unless the unit is constructed for the purpose of supplying, or commences construction after November 15, 1990 and supplies, more than one-third of its potential electrical output capacity and more than 25 MWe output to any power distribution system for sale.

*Utilization* means the heat input (expressed in mmBtu/time) for a unit.

*Very low sulfur fuel* means either:

(1) A fuel with a total sulfur content no greater than 0.05 percent sulfur by weight;

(2) Natural gas or pipeline natural gas, as defined in this section; or

(3) Any gaseous fuel with a total sulfur content no greater than 20 grains of sulfur per 100 standard cubic feet.

*Volumetric flow* means the rate of movement of a specified volume of gas past a cross-sectional area (e.g., cubic feet per hour).

*Zero air material* means either:

(1) A calibration gas certified by the gas vendor not to contain concentrations of SO<sub>2</sub>, NO<sub>x</sub>, or total hydrocarbons above 0.1 parts per million (ppm), a concentration of CO above 1 ppm, or a concentration of CO<sub>2</sub> above 400 ppm;

(2) Ambient air conditioned and purified by a CEMS for which the CEMS manufacturer or vendor certifies that the particular CEMS model produces conditioned gas that does not contain concentrations of SO<sub>2</sub>, NO<sub>x</sub>, or total hydrocarbons above 0.1 ppm, a concentration of CO above 1 ppm, or a concentration of CO<sub>2</sub> above 400 ppm;

(3) For dilution-type CEMS, conditioned and purified ambient air provided by a conditioning system concurrently supplying dilution air to the CEMS; or

(4) A multicomponent mixture certified by the supplier of the mixture that the concentration of the component being zeroed is less than or equal to the applicable concentration specified in paragraph (1) of this definition, and that the mixture's other components do not interfere with the CEM readings.

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