§62.14101 Definitions.

Terms used but not defined in this subpart have the meaning given to them in the Clean Air Act and 40 CFR part 60, subparts A, B, and Eb.

Contract means a legally binding agreement or obligation that cannot be canceled or modified without substantial financial loss.

De-rate means to make a permanent physical change to the municipal waste combustor unit that reduces the maximum combustion capacity of the unit to less than or equal to 250 tons per day of municipal solid waste. A permit restriction or a change in the method of operation does not qualify as de-rating. (See the procedures specified in 40 CFR 60.58b(j) of subpart Eb for calculating municipal waste combustor unit capacity.)

EPA approved State plan means a State plan that EPA has reviewed and approved based on the requirements in 40 CFR part 60, subpart B to implement and enforce 40 CFR part 60, subpart Cb. An approved State plan becomes effective on the date specified in the notice published in the FEDERAL REGISTER announcing EPA's approval.

Municipal waste combustor plant means one or more affected facilities (as defined in §62.14102) at the same location.

Protectorate means American Samoa, the Commonwealth of Puerto Rico, the District of Columbia, Guam, the Northern Mariana Islands, and the Virgin Islands.

State means any of the 50 United States and the protectorates of the United States.

State plan means a plan submitted pursuant to section 111(d) and section 129(b)(2) of the Clean Air Act and 40 CFR part 60, subpart B that implements and enforces 40 CFR part 60, subpart Cb.

Tribal plan means a plan submitted by a Tribal Authority pursuant to 40 CFR parts 9, 35, 49, 50, and 81 that implements and enforces 40 CFR part 60, subpart Cb.

§62.14102 Affected facilities.

(a) The affected facility to which this subpart applies is each municipal waste combustor unit with a capacity to combust greater than 250 tons per day of municipal solid waste for which construction was commenced on or before September 20, 1994 that is not regulated by an EPA approved and currently effective State or Tribal plan. Table 1 of this subpart lists those units regulated by an EPA approved State plan. Notwithstanding the exclusions in table 1 of this subpart, this subpart applies to affected facilities not regulated by an EPA approved and currently effective State or Tribal plan.

(b) A municipal waste combustor unit regulated by an EPA approved and currently effective State or Tribal plan is not regulated by this subpart.

(c) Any municipal waste combustor unit that has the capacity to combust more than 250 tons per day of municipal solid waste and is subject to a Federally enforceable permit limiting the maximum amount of municipal solid waste that may be combusted in the unit to less than 11 tons per day is not subject to this subpart if the owner or operator:

(1) Notifies the EPA Administrator of an exemption claim;

(2) Provides a copy of the Federally enforceable permit that limits the firing of municipal solid waste to less than 11 tons per day; and

(3) Keeps records of the amount of municipal solid waste fired on a daily basis.

(d) Physical or operational changes made to an existing municipal waste combustor unit primarily for the purpose of complying with the emission requirements of this subpart are not considered in determining whether the unit is a modified or reconstructed facility under 40 CFR part 60, subpart Ea or subpart Eb.

(e) A qualifying small power production facility, as defined in section 3(17)(C) of the Federal Power Act (16 U.S.C. 796(17)(C)), that burns homogeneous waste (such as automotive tires or used oil, but not including refuse-derived fuel) for the production of electric energy is not subject to this subpart if the owner or operator of the facility notifies the EPA Administrator of this exemption and provides data documenting that the facility qualifies for this exemption.

(f) A qualifying cogeneration facility, as defined in section 3(18)(B) of the