

(3) Used in a space cooling application (*i.e.*, thermal energy used by an absorption chiller).

Utility power distribution system means the portion of an electricity grid owned or operated by a utility and dedicated to delivering electricity to customers.

[70 FR 25362, May 12, 2005, as amended at 71 FR 25385, Apr. 28, 2006; 71 FR 74794, Dec. 13, 2006]

EDITORIAL NOTE: At 71 FR 25386, Apr. 28, 2005, § 96.202 was amended in the definition of “CAIR NO_x Ozone Season source”, by revising the words “includes one or more CAIR NO_x Ozone Season unit” to read “is subject to the CAIR NO_x Ozone Season Trading Program”; however, those words do not exist in this section and the amendment could not be incorporated.

EDITORIAL NOTE: At 71 FR 74794, Dec. 13, 2006, § 96.202 was amended in the definition of “CAIR SO₂ allowance” in paragraph (4), by revising the words “(Program, provisions)” to read “Program, provisions”; however, paragraph (4) does not exist in this section and the amendment could not be incorporated

§ 96.203 Measurements, abbreviations, and acronyms.

Measurements, abbreviations, and acronyms used in this subpart and subparts BBB through III are defined as follows:

- Btu—British thermal unit
- CO₂—carbon dioxide
- H₂O—water
- Hg—mercury
- hr—hour
- kW—kilowatt electrical
- kWh—kilowatt hour
- lb—pound
- mmBtu—million Btu
- MWe—megawatt electrical
- MWh—megawatt hour
- NO_x—nitrogen oxides
- O₂—oxygen
- ppm—parts per million
- scfh—standard cubic feet per hour
- SO₂—sulfur dioxide
- yr—year

[71 FR 25387, Apr. 28, 2006]

§ 96.204 Applicability.

(a) Except as provided in paragraph (b) of this section:

(1) The following units in a State shall be CAIR SO₂ units, and any source that includes one or more such units shall be a CAIR SO₂ source, sub-

ject to the requirements of this subpart and subparts BBB through HHH of this part: any stationary, fossil-fuel-fired boiler or stationary, fossil-fuel-fired combustion turbine serving at any time, since the later of November 15, 1990 or the start-up of the unit’s combustion chamber, a generator with nameplate capacity of more than 25 MWe producing electricity for sale.

(2) If a stationary boiler or stationary combustion turbine that, under paragraph (a)(1) of this section, is not a CAIR SO₂ unit begins to combust fossil fuel or to serve a generator with nameplate capacity of more than 25 MWe producing electricity for sale, the unit shall become a CAIR SO₂ unit as provided in paragraph (a)(1) of this section on the first date on which it both combusts fossil fuel and serves such generator.

(b) The units in a State that meet the requirements set forth in paragraph (b)(1)(i), (b)(2)(i), or (b)(2)(ii) of this section shall not be CAIR SO₂ units:

(1)(i) Any unit that is a CAIR SO₂ unit under paragraph (a)(1) or (2) of this section:

(A) Qualifying as a cogeneration unit during the 12-month period starting on the date the unit first produces electricity and continuing to qualify as a cogeneration unit; and

(B) Not serving at any time, since the later of November 15, 1990 or the start-up of the unit’s combustion chamber, a generator with nameplate capacity of more than 25 MWe supplying in any calendar year more than one-third of the unit’s potential electric output capacity or 219,000 MWh, whichever is greater, to any utility power distribution system for sale.

(ii) If a unit qualifies as a cogeneration unit during the 12-month period starting on the date the unit first produces electricity and meets the requirements of paragraphs (b)(1)(i) of this section for at least one calendar year, but subsequently no longer meets all such requirements, the unit shall become a CAIR SO₂ unit starting on the earlier of January 1 after the first calendar year during which the unit first no longer qualifies as a cogeneration unit or January 1 after the first calendar year during which the unit no

longer meets the requirements of paragraph (b)(1)(i)(B) of this section.

(2)(i) Any unit that is a CAIR SO₂ unit under paragraph (a)(1) or (2) of this section commencing operation before January 1, 1985:

(A) Qualifying as a solid waste incineration unit; and

(B) With an average annual fuel consumption of non-fossil fuel for 1985–1987 exceeding 80 percent (on a Btu basis) and an average annual fuel consumption of non-fossil fuel for any 3 consecutive calendar years after 1990 exceeding 80 percent (on a Btu basis).

(ii) Any unit that is a CAIR SO₂ unit under paragraph (a)(1) or (2) of this section commencing operation on or after January 1, 1985:

(A) Qualifying as a solid waste incineration unit; and

(B) With an average annual fuel consumption of non-fossil fuel for the first 3 calendar years of operation exceeding 80 percent (on a Btu basis) and an average annual fuel consumption of non-fossil fuel for any 3 consecutive calendar years after 1990 exceeding 80 percent (on a Btu basis).

(iii) If a unit qualifies as a solid waste incineration unit and meets the requirements of paragraph (b)(2)(i) or (ii) of this section for at least 3 consecutive calendar years, but subsequently no longer meets all such requirements, the unit shall become a CAIR SO₂ unit starting on the earlier of January 1 after the first calendar year during which the unit first no longer qualifies as a solid waste incineration unit or January 1 after the first 3 consecutive calendar years after 1990 for which the unit has an average annual fuel consumption of fossil fuel of 20 percent or more.

[71 FR 25387, Apr. 28, 2006]

§ 96.205 Retired unit exemption.

(a)(1) Any CAIR SO₂ unit that is permanently retired and is not a CAIR SO₂ opt-in unit under subpart III of this part shall be exempt from the CAIR SO₂ Trading Program, except for the provisions of this section, § 96.202, § 96.203, § 96.204, § 96.206(c)(4) through (7), § 96.207, § 96.208, and subparts BBB, FFF, and GGG of this part.

(2) The exemption under paragraph (a)(1) of this section shall become effec-

tive the day on which the CAIR SO₂ unit is permanently retired. Within 30 days of the unit's permanent retirement, the CAIR designated representative shall submit a statement to the permitting authority otherwise responsible for administering any CAIR permit for the unit and shall submit a copy of the statement to the Administrator. The statement shall state, in a format prescribed by the permitting authority, that the unit was permanently retired on a specific date and will comply with the requirements of paragraph (b) of this section.

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

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

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

(3) The owners and operators and, to the extent applicable, the CAIR designated representative of a unit exempt under paragraph (a) of this section shall comply with the requirements of the CAIR SO₂ Trading Program concerning all periods for which the exemption is not in effect, even if such requirements arise, or must be complied with, after the exemption takes effect.

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