

**WAC 173-406-101 Definitions.** The terms used in this regulation shall have the meanings set forth in Title IV of the Clean Air Act, 42 U.S.C. 7401, et seq. as amended by the Clean Air Act Amendments of 1990, 42 U.S.C. 7651, et seq. (November 15, 1990,) and in this section as follows:

(1) "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 WAC 173-406-400 or regulations implementing section 407 of the act.

(2) "Acid Rain emissions limitation" means:

(a) For the purposes of sulfur dioxide emissions:

(i) The tonnage equivalent of the basic Phase II allowance allocations authorized to be allocated to an affected unit 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 40 C.F.R. part 72; 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 pursuant to 40 C.F.R. 73.35, after deductions and other adjustments are made pursuant to 40 C.F.R. 73.34(c); and

(b) For purposes of nitrogen oxides emissions, the applicable limitation established by regulations promulgated by the administrator pursuant to section 407 of the act, as modified by an acid rain permit application submitted to the permitting authority, and an acid rain permit issued by the permitting authority, in accordance with regulations implementing section 407 of the act.

(3) "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.

(4) "Acid rain permit or permit" means the legally binding written document, or portion of such document, issued by the permitting authority (following an opportunity for appeal pursuant to 40 C.F.R. part 78, chapter 43.21 RCW or other administrative appeals procedures established by the permitting authority), including any permit revisions, specifying the acid rain program requirements applicable to an affected source, to each affected unit at an affected source, and to the owners and operators and the designated representative of the affected source or the affected unit.

(5) "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, WAC 173-406-100 through 173-406-1000, 40 C.F.R. parts 72, 73, 75, 77, and 78, and regulations implementing sections 407 and 410 of the act.

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

(7) "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 year; provided that, if the unit is listed in the National Allowance Database, 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 "SO2RTE."

(8) "Administrator" means the Administrator of the United States Environmental Protection Agency or the administrator's duly authorized representative.

(9) "Affected source" means a source that includes one or more affected units.

(10) "Affected state" means a state whose boundary is within fifty statute miles of an affected source within the state of Washington.

(11) "Affected unit" means a unit that is subject to any acid rain emissions reduction requirement or acid rain emissions limitation.

(12) "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.

(13) "Allocate or allocation" means the initial crediting of an allowance by the administrator to an allowance tracking system unit account or general account.

(14) "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.

(15) "Allowance deduction, or deduct when referring to allowances," means the permanent withdrawal of allowances by the administrator from an allowance tracking system compliance subaccount to account for the number of the 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 pursuant to 40 C.F.R. part 75, or for any other allowance surrender obligations of the acid rain program.

(16) "Allowances held or hold allowances" means the allowances recorded by the administrator, or submitted to the administrator for recordation in accordance with 40 C.F.R. 73.50, in an allowance tracking system account.

(17) "Allowance tracking system or ATS" means the acid rain program system by which the administrator allocates, records, deducts, and tracks allowances.

(18) "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.

(19) "Allowance transfer deadline" means midnight of January 30th or, if January 30th 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.

(20) "Authorized account representative" means a responsible natural person who is authorized, in accordance with 40 C.F.R. part 73, 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.

(21) "Auxiliary firing" means the combustion of additional fuel downstream of a gas turbine for the purpose of adding thermal energy to the exhaust gases which can be recovered in a waste heat recovery unit.

(22) "Basic Phase II allowance allocations" means:

(a) 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).

(b) 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).

(23) "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.

(24) "Certificate of representation" means the completed and signed submission required by 40 C.F.R. 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.

(25) "Certifying official" means:

(a) 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;

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

(c) For a local government entity or state, federal, or other public agency, either a principal executive officer or ranking elected official.

(26) "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."*

(27) "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, liquefied or gasified coal, washed coal, chemically cleaned coal, coal-oil mixtures, and coke).

(28) "Coal-fired" means the combustion of fuel consisting of coal or any coal-derived fuel (except a coal-derived gaseous fuel with a sulfur content no greater than natural gas), alone or in combination with any other fuel, where 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."

(29) "Cogeneration unit" means a unit that has equipment used to produce electric energy and forms of useful thermal energy (such as heat or steam) for industrial, commercial, heating or cooling purposes, through the sequential use of energy.

(30) "Commence commercial operation" means to have begun to generate electricity for sale, including the sale of test generation.

(31) "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 eighteen months, a continuous program of construction. The permitting authority may, upon application by the owner or operator, extend the period for completion at its discretion.

(32) "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.

(33) "Common stack" means the exhaust of emissions from two or more units through a single flue.

(34) "Compliance certification" means a submission to the administrator or the permitting authority that is required by WAC 173-406-100 through 173-406-1000, by 40 C.F.R. part 72, 73, 75, 77, or 78, or by regulations implementing sections 407 or 410 of the act to report an affected source's 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 subpart B of 40 C.F.R. part 72, WAC 173-406-800, and the acid rain program regulations generally.

(35) "Compliance plan, for purposes of the acid rain program," means the document submitted for an affected source in accordance with WAC 173-406-301 and 173-406-302 specifying the method(s) (including one or more acid rain compliance options under WAC 173-406-402 or regulations implementing section 407 of the act) by which each affected unit at the source will meet the applicable acid rain emissions limitation and acid rain emissions reduction requirements.

(36) "Compliance subaccount" means the subaccount in an affected unit's allowance tracking system account, established pursuant to 40 C.F.R. 73.31 (a) or (b), in which are held, from the date that allowances for the current calendar year are recorded under 40 C.F.R. 73.34(a) until December 31st, allowances available for use by the unit in the current calendar year and, after December 31st until the date that deductions are made under 40 C.F.R. 73.35(b), allowances available for use by the unit in the preceding calendar year, for the purpose of meeting the unit's acid rain emissions limitation for sulfur dioxide.

(37) "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.

(38) "Construction" means fabrication, erection, or installation of a unit or any portion of a unit.

(39) "Control officer" means the air pollution control officer of a local air pollution control authority which is constituted under chapter 70.94 RCW.

(40) "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, as evidenced by a certificate of representation submitted in accordance with subpart B of 40 C.F.R. part 72, 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 40 C.F.R. part 70 or in any other regulations implementing Title V of the act, it shall be deemed to refer to the "designated representative" with regard to all matters under the acid rain program. An alternate designated representative is also included in this definition.

(41) "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 ASTM D975-91, "*Standard Specification for Diesel Fuel Oils.*"

(42) "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. Per-

centage ownership of such equipment and facilities shall be measured on the basis of book value.

(43) "Director" means the director of the Washington department of ecology.

(44) "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 the permitting authority offers for public comment.

(45) "Ecology" means the Washington department of ecology.

(46) "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 40 C.F.R. part 75.

(47) "EPA" means the United States Environmental Protection Agency.

(48) "Excess emissions" means:

(a) 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

(b) Any tonnage of nitrogen oxides 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.

(49) "Executive director" means the executive director of a local air pollution control authority which is constituted under chapter 70.94 RCW.

(50) "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 a nameplate capacity of greater than twenty-five MWe. "Existing unit" does not include simple combustion turbines or any unit that on or after November 15, 1990, served only generators with a nameplate capacity of twenty-five MWe or less. Any "existing unit" that is modified, reconstructed, or repowered after November 15, 1990, shall continue to be an "existing unit."

(51) "Facility" means any institutional, commercial, or industrial structure, installation, plant, source, or building.

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

(53) "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 percentage of fossil fuel consumed in any calendar year.

(54) "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*," and any recycled or blended petroleum products or petroleum by-products used as a fuel whether in a liquid, solid or gaseous state.

(55) "Gas-fired" means the combustion of natural gas, or a coal-derived gaseous fuel with a sulfur content no greater than natural gas, for at least ninety percent of the average annual heat input during the previous three calendar years and for at least eighty-five percent of the annual heat input in each of those calendar years; and any fuel other than coal or any other coal-derived fuel for the remaining heat input, if any.

(56) "General account" means an allowance tracking system account that is not a unit account.

(57) "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).

(58) "Generator output capacity" means the full-load continuous rating of a generator under specific conditions as designed by the manufacturer.

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

(60) "Independent power production facility (IPP)" means a source that:

- (a) Is nonrecourse project financed, as defined by the Secretary of Energy at 10 C.F.R. part 715;
- (b) Is used for the generation of electricity, eighty percent or more of which is sold at wholesale; and
- (c) Is a new unit required to hold allowances under Title IV of the act;
- (d) Provided that direct public utility ownership of the equipment comprising the facility does not exceed fifty percent.

(61) "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:

- (a) For the life of the unit;
- (b) For a cumulative term of no less than thirty years, including contracts that permit an election for early termination; or
- (c) For a period equal to or greater than twenty-five years or seventy percent of the economic useful life of the unit determined as of the time the unit was built, with option rights to purchase or re-lease some portion of the nameplate capacity and associated energy generated by the unit at the end of the period.

(62) "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.

(63) "National Allowance Database or NADB" means the database established by the administrator under section 402 (4) (C) of the act.

(64) "Natural person" means an individual human being and not a firm, public or private corporation, association, partnership, political subdivision, municipality, or governmental agency corporate entity or partnership.

(65) "Natural gas" means a naturally occurring fluid mixture of hydrocarbons containing little or no sulfur (e.g., methane, ethane, or propane), produced in geological formations beneath the Earth's surface, and maintaining a gaseous state at standard atmospheric temperature and pressure conditions under ordinary conditions of sixty-eight

degrees Fahrenheit and one atmosphere (seven hundred sixty millimeters of mercury).

(66) "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 twenty-five MWe or less or that is a simple combustion turbine.

(67) "Offset plan" means a plan pursuant to 40 C.F.R. part 77 for offsetting excess emissions of sulfur dioxide that have occurred at an affected unit in any calendar year.

(68) "Oil-fired" means the combustion of: Fuel oil for more than ten percent of the average annual heat input during the previous three calendar years or for more than fifteen percent of the annual heat input in any one of those calendar years; and any solid, liquid, or gaseous fuel, other than coal or any other coal-derived fuel (except a coal-derived gaseous fuel with a sulfur content no greater than natural gas), for the remaining heat input, if any.

(69) "Operating permit" means a permit issued under 40 C.F.R. part 70 and any other regulations implementing Title V of the act.

(70) "Owner" means any of the following persons:

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

(b) Any holder of a leasehold interest in an affected unit; or

(c) Any purchaser of power from an affected unit under a life-of-the-unit, firm power contractual arrangement. However, unless expressly provided for 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

(d) With respect to any allowance tracking system general account, any person identified in the submission required by 40 C.F.R. 73.31(c) that is subject to the binding agreement for the authorized account representative to represent that person's ownership interest with respect to allowances.

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

(72) "Permit revision" means a permit modification, fast track modification, administrative permit amendment, or automatic permit amendment, as provided in WAC 173-406-700.

(73) "Permitting authority" means the Washington department of ecology, the Washington energy facility site evaluation council, local air authority or other agency authorized under chapter 70.94 RCW and approved by EPA to carry out a permit program under this chapter.

(74) "Person" means an individual, firm, public or private corporation, association, partnership, political subdivision, municipality, or governmental agency.

(75) "Phase II" means the acid rain program period beginning January 1, 2000, and continuing into the future thereafter.

(76) "Potential electrical output capacity" means the MWe capacity rating for the units which shall be equal to thirty-three percent of the maximum design heat input capacity of the steam generating unit, as calculated according to Appendix D of 40 C.F.R. part 72.

(77) "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.

(78) "Power purchase commitment" means a commitment or obligation of a utility to purchase electric power from a facility pursuant to:

(a) A power sales agreement;

(b) 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;

(c) 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, 1992, or, where the letter of intent does not specify a time frame, a power sales agreement applicable to the source is executed on or before November 15, 1992; or

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

(79) "Power sales agreement" means a legally binding agreement between a qualifying facility, an independent power production facility, 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.

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

(81) "Proposed acid rain permit or proposed permit" means 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 under 40 C.F.R. 70.8(c).

(82) "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.

(83) "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:

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

(b) 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.

(84) "Qualifying repowering technology" means:

(a) 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 November 15, 1990; or

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

(85) "Receive or receipt of" means the date the administrator or the 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.

(86) "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.

(87) "Schedule of compliance" means an enforceable sequence of actions, measures, or operations designed to achieve or maintain compliance, or correct noncompliance, with an applicable requirement of the acid rain program, including any applicable acid rain permit requirement.

(88) "Secretary of Energy" means the Secretary of the United States Department of Energy or the secretary's duly authorized representative.

(89) "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.

(90) "Solid waste incinerator" means a source as defined in section 129 (g) (1) of the act.

(91) "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."

(92) "Stack" means a structure that includes one or more flues and the housing for the flues.

(93) "State" means one of the forty-eight contiguous states and the District of Columbia and includes any nonfederal authorities, including local agencies, interstate associations, and statewide agencies with approved state operating permit programs. The term "state" shall have its conventional meaning where such meaning is clear from the context.

(94) "State operating permit program" means an operating permit program that the administrator has approved as meeting the requirements of Titles IV and V of the act and 40 C.F.R. parts 70 and 72.

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

(a) In person;

(b) By United States Postal Service certified mail with the official postmark or, if service is by the administrator or the permitting authority, by any other mail service by the United States Postal Service; or

(c) By other means with an equivalent time and date mark used in the regular course of business to indicate the date of dispatch or transmission and a record of prompt 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.

(96) "Ton or tonnage" means any "short ton" (i.e., two thousand 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 40 C.F.R. part 75, with any remaining fraction of a ton equal to or greater than one-half ton deemed to equal one ton and any fraction of a ton less than one-half ton deemed not to equal any ton.

(97) "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.

(98) "Total installed net output capacity" means the generator output capacity, excluding that portion of the electrical power actually used at the power production facility, as installed.

(99) "Unit" means a fossil fuel-fired combustion device.

(100) "Unit account" means an allowance tracking system account, established by the administrator for an affected unit pursuant to 40 C.F.R. 73.31 (a) or (b).

(101) "Utility" means any person that sells electricity.

(102) "Utility competitive bid solicitation" means a public request from a regulated utility for offers to the utility for meeting future generating needs. A qualifying facility, independent power production facility 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.

(103) "Utility regulatory authority" means an authority, board, commission, or other entity (limited to the local-level, state-level, 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.

(104) "Utility unit" means a unit owned or operated by a utility:

- (a) That serves a generator that produces electricity for sale;
- or
- (b) That during 1985, served a generator that produced electricity for sale.

(c) Notwithstanding (a) and (b) of this subsection, 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.

(d) Notwithstanding (a) and (b) of this subsection, 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 twenty-five MWe output to any power distribution system for sale.

[Statutory Authority: Chapter 70.94 RCW. WSR 94-23-127 (Order 94-23),  
§ 173-406-101, filed 11/23/94, effective 12/24/94.]