

means of mitigating interstate transport of fine particulates and nitrogen oxides.

[76 FR 48379, Aug. 8, 2011, as amended at 81 FR 74604, Oct. 26, 2016]

#### § 97.402 Definitions.

The terms used in this subpart shall have the meanings set forth in this section as follows, provided that any term that includes the acronym “CSAPR” shall be considered synonymous with a term that is used in a SIP revision approved by the Administrator under § 52.38 or § 52.39 of this chapter and that is substantively identical except for the inclusion of the acronym “TR” in place of the acronym “CSAPR”:

*Acid Rain Program* means a multi-state SO<sub>2</sub> and NO<sub>x</sub> air pollution control and emission reduction program established by the Administrator under title IV of the Clean Air Act and parts 72 through 78 of this chapter.

*Administrator* means the Administrator of the United States Environmental Protection Agency or the Director of the Clean Air Markets Division (or its successor determined by the Administrator) of the United States Environmental Protection Agency, the Administrator’s duly authorized representative under this subpart.

*Allocate or allocation* means, with regard to CSAPR NO<sub>x</sub> Annual allowances, the determination by the Administrator, State, or permitting authority, in accordance with this subpart and any SIP revision submitted by the State and approved by the Administrator under § 52.38(a)(3), (4), or (5) of this chapter, of the amount of such CSAPR NO<sub>x</sub> Annual allowances to be initially credited, at no cost to the recipient, to:

- (1) A CSAPR NO<sub>x</sub> Annual unit;
- (2) A new unit set-aside;
- (3) An Indian country new unit set-aside; or
- (4) An entity not listed in paragraphs (1) through (3) of this definition;
- (5) Provided that, if the Administrator, State, or permitting authority initially credits, to a CSAPR NO<sub>x</sub> Annual unit qualifying for an initial credit, a credit in the amount of zero CSAPR NO<sub>x</sub> Annual allowances, the CSAPR NO<sub>x</sub> Annual unit will be treat-

ed as being allocated an amount (*i.e.*, zero) of CSAPR NO<sub>x</sub> Annual allowances.

*Allowable NO<sub>x</sub> emission rate* means, for a unit, the most stringent State or federal NO<sub>x</sub> emission rate limit (in lb/MWh or, if in lb/mmBtu, converted to lb/MWh by multiplying it by the unit’s heat rate in mmBtu/MWh) that is applicable to the unit and covers the longest averaging period not exceeding one year.

*Allowance Management System* means the system by which the Administrator records allocations, auctions, transfers, and deductions of CSAPR NO<sub>x</sub> Annual allowances under the CSAPR NO<sub>x</sub> Annual Trading Program. Such allowances are allocated, auctioned, recorded, held, transferred, or deducted only as whole allowances.

*Allowance Management System account* means an account in the Allowance Management System established by the Administrator for purposes of recording the allocation, auction, holding, transfer, or deduction of CSAPR NO<sub>x</sub> Annual allowances.

*Allowance transfer deadline* means, for a control period in a given year, midnight of March 1 (if it is a business day), or midnight of the first business day thereafter (if March 1 is not a business day), immediately after such control period and is the deadline by which a CSAPR NO<sub>x</sub> Annual allowance transfer must be submitted for recordation in a CSAPR NO<sub>x</sub> Annual source’s compliance account in order to be available for use in complying with the source’s CSAPR NO<sub>x</sub> Annual emissions limitation for such control period in accordance with §§ 97.406 and 97.424.

*Alternate designated representative* means, for a CSAPR NO<sub>x</sub> Annual source and each CSAPR NO<sub>x</sub> Annual unit at the source, the natural person who is authorized by the owners and operators of the source and all such units at the source, in accordance with this subpart, to act on behalf of the designated representative in matters pertaining to the CSAPR NO<sub>x</sub> Annual Trading Program. If the CSAPR NO<sub>x</sub> Annual source is also subject to the Acid Rain Program, CSAPR NO<sub>x</sub> Ozone Season Group 1 Trading Program, CSAPR NO<sub>x</sub> Ozone Season Group 2 Trading Program, CSAPR SO<sub>2</sub> Group 1

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Trading Program, or CSAPR SO<sub>2</sub> Group 2 Trading Program, then this natural person shall be the same natural person as the alternate designated representative as defined in the respective program.

*Assurance account* means an Allowance Management System account, established by the Administrator under § 97.425(b)(3) for certain owners and operators of a group of one or more CSAPR NO<sub>x</sub> Annual sources and units in a given State (and Indian country within the borders of such State), in which are held CSAPR NO<sub>x</sub> Annual allowances available for use for a control period in a given year in complying with the CSAPR NO<sub>x</sub> Annual assurance provisions in accordance with §§ 97.406 and 97.425.

*Auction* means, with regard to CSAPR NO<sub>x</sub> Annual allowances, the sale to any person by a State or permitting authority, in accordance with a SIP revision submitted by the State and approved by the Administrator under § 52.38(a)(4) or (5) of this chapter, of such CSAPR NO<sub>x</sub> Annual allowances to be initially recorded in an Allowance Management System account.

*Authorized account representative* means, for a general account, the natural person who is authorized, in accordance with this subpart, to transfer and otherwise dispose of CSAPR NO<sub>x</sub> Annual allowances held in the general account and, for a CSAPR NO<sub>x</sub> Annual source's compliance account, the designated representative of the source.

*Automated data acquisition and handling system* or *DAHS* means the component of the continuous emission monitoring system, or other emissions monitoring system approved for use under this subpart, designed to interpret and convert individual output signals from pollutant concentration monitors, flow monitors, diluent gas monitors, and other component parts of the monitoring system to produce a continuous record of the measured parameters in the measurement units required by this subpart.

*Biomass* means—

(1) Any organic material grown for the purpose of being converted to energy;

(2) Any organic byproduct of agriculture that can be converted into energy; or

(3) Any material that can be converted into energy and is nonmerchantable for other purposes, that is segregated from other material that is nonmerchantable for other purposes, and that is;

(i) A forest-related organic resource, including mill residues, precommercial thinnings, slash, brush, or byproduct from conversion of trees to merchantable material; or

(ii) A wood material, including pallets, crates, dunnage, manufacturing and construction materials (other than pressure-treated, chemically-treated, or painted wood products), and landscape or right-of-way tree trimmings.

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

*Bottoming-cycle unit* means a unit in which the energy input to the unit is first used to produce useful thermal energy, where at least some of the reject heat from the useful thermal energy application or process is then used for electricity production.

*Business day* means a day that does not fall on a weekend or a federal holiday.

*Certifying official* means a natural person who is:

(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 a partnership or sole proprietorship, a general partner or the proprietor respectively; or

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

*Clean Air Act* means the Clean Air Act, 42 U.S.C. 7401, *et seq.*

*Coal* means “coal” as defined in § 72.2 of this chapter.

*Coal-derived fuel* means any fuel (whether in a solid, liquid, or gaseous state) produced by the mechanical,

thermal, or chemical processing of coal.

*Cogeneration system* means an integrated group, at a source, of equipment (including a boiler, or combustion turbine, and a generator) designed to produce useful thermal energy for industrial, commercial, heating, or cooling purposes and electricity through the sequential use of energy.

*Cogeneration unit* means a stationary, fossil-fuel-fired boiler or stationary, fossil-fuel-fired combustion turbine that is a topping-cycle unit or a bottoming-cycle unit:

(1) Operating as part of a cogeneration system; and

(2) Producing on an annual average basis—

(i) For a topping-cycle unit,

(A) Useful thermal energy not less than 5 percent of total energy output; and

(B) Useful power that, when added to one-half of useful thermal energy produced, is not less than 42.5 percent of total energy input, if useful thermal energy produced is 15 percent or more of total energy output, or not less than 45 percent of total energy input, if useful thermal energy produced is less than 15 percent of total energy output.

(ii) For a bottoming-cycle unit, useful power not less than 45 percent of total energy input;

(3) Provided that the requirements in paragraph (2) of this definition shall not apply to a calendar year referenced in paragraph (2) of this definition during which the unit did not operate at all;

(4) Provided that the total energy input under paragraphs (2)(i)(B) and (2)(ii) of this definition shall equal the unit's total energy input from all fuel, except biomass if the unit is a boiler; and

(5) Provided that, if, throughout its operation during the 12-month period or a calendar year referenced in paragraph (2) of this definition, a unit is operated as part of a cogeneration system and the cogeneration system meets on a system-wide basis the requirement in paragraph (2)(i)(B) or (2)(ii) of this definition, the unit shall be deemed to meet such requirement during that 12-month period or calendar year.

*Combustion turbine* means an enclosed device comprising:

(1) If the device is simple cycle, a compressor, a combustor, and a turbine and in which the flue gas resulting from the combustion of fuel in the combustor passes through the turbine, rotating the turbine; and

(2) If the device is combined cycle, the equipment described in paragraph (1) of this definition and any associated duct burner, heat recovery steam generator, and steam turbine.

*Commence commercial operation* means, with regard to a unit:

(1) To have begun to produce steam, gas, or other heated medium used to generate electricity for sale or use, including test generation, except as provided in § 97.405.

(i) For a unit that is a CSAPR NO<sub>x</sub> Annual unit under § 97.404 on the later of January 1, 2005 or the date the unit commences commercial operation as defined in the introductory text of paragraph (1) of this definition and that subsequently undergoes a physical change or is moved to a new location or source, such date shall remain the date of commencement of commercial operation of the unit, which shall continue to be treated as the same unit.

(ii) For a unit that is a CSAPR NO<sub>x</sub> Annual unit under § 97.404 on the later of January 1, 2005 or the date the unit commences commercial operation as defined in the introductory text of paragraph (1) of this definition and that is subsequently replaced by a unit at the same or a different source, such date shall remain the replaced unit's date of commencement of commercial operation, and the replacement unit shall be treated as a separate unit with a separate date for commencement of commercial operation as defined in paragraph (1) or (2) of this definition as appropriate.

(2) Notwithstanding paragraph (1) of this definition and except as provided in § 97.405, for a unit that is not a CSAPR NO<sub>x</sub> Annual unit under § 97.404 on the later of January 1, 2005 or the date the unit commences commercial operation as defined in the introductory text of paragraph (1) of this definition, the unit's date for commencement of commercial operation shall be

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the date on which the unit becomes a CSAPR NO<sub>x</sub> Annual unit under §97.404.

(i) For a unit with a date for commencement of commercial operation as defined in the introductory text of paragraph (2) of this definition and that subsequently undergoes a physical change or is moved to a different location or source, such date shall remain the date of commencement of commercial operation of the unit, which shall continue to be treated as the same unit.

(ii) For a unit with a date for commencement of commercial operation as defined in the introductory text of paragraph (2) of this definition and that is subsequently replaced by a unit at the same or a different source, such date shall remain the replaced unit's date of commencement of commercial operation, and the replacement unit shall be treated as a separate unit with a separate date for commencement of commercial operation as defined in paragraph (1) or (2) of this definition as appropriate.

*Common designated representative* means, with regard to a control period in a given year, a designated representative where, as of April 1 immediately after the allowance transfer deadline for such control period, the same natural person is authorized under §§97.413(a) and 97.415(a) as the designated representative for a group of one or more CSAPR NO<sub>x</sub> Annual sources and units located in a State (and Indian country within the borders of such State).

*Common designated representative's assurance level* means, with regard to a specific common designated representative and a State (and Indian country within the borders of such State) and control period in a given year for which the State assurance level is exceeded as described in §97.406(c)(2)(iii), the common designated representative's share of the State NO<sub>x</sub> Annual trading budget with the variability limit for the State for such control period.

*Common designated representative's share* means, with regard to a specific common designated representative for a control period in a given year:

(1) With regard to a total amount of NO<sub>x</sub> emissions from all CSAPR NO<sub>x</sub> Annual units in a State (and Indian

country within the borders of such State) during such control period, the total tonnage of NO<sub>x</sub> emissions during such control period from a group of one or more CSAPR NO<sub>x</sub> Annual units located in such State (and such Indian country) and having the common designated representative for such control period;

(2) With regard to a State NO<sub>x</sub> Annual trading budget with the variability limit for such control period, the amount (rounded to the nearest allowance) equal to the sum of the total amount of CSAPR NO<sub>x</sub> Annual allowances allocated for such control period to a group of one or more CSAPR NO<sub>x</sub> Annual units located in the State (and Indian country within the borders of such State) and having the common designated representative for such control period and the total amount of CSAPR NO<sub>x</sub> Annual allowances purchased by an owner or operator of such CSAPR NO<sub>x</sub> Annual units in an auction for such control period and submitted by the State or the permitting authority to the Administrator for recordation in the compliance accounts for such CSAPR NO<sub>x</sub> Annual units in accordance with the CSAPR NO<sub>x</sub> Annual allowance auction provisions in a SIP revision approved by the Administrator under §52.38(a)(4) or (5) of this chapter, multiplied by the sum of the State NO<sub>x</sub> Annual trading budget under §97.410(a) and the State's variability limit under §97.410(b) for such control period and divided by such State NO<sub>x</sub> Annual trading budget;

(3) Provided that, in the case of a unit that operates during, but has no amount of CSAPR NO<sub>x</sub> Annual allowances allocated under §§97.411 and 97.412 for, such control period, the unit shall be treated, solely for purposes of this definition, as being allocated an amount (rounded to the nearest allowance) of CSAPR NO<sub>x</sub> Annual allowances for such control period equal to the unit's allowable NO<sub>x</sub> emission rate applicable to such control period, multiplied by a capacity factor of 0.85 (if the unit is a boiler combusting any amount of coal or coal-derived fuel during such control period), 0.24 (if the unit is a simple combustion turbine during such control period), 0.67 (if the unit is a combined cycle turbine during

such control period), 0.74 (if the unit is an integrated coal gasification combined cycle unit during such control period), or 0.36 (for any other unit), multiplied by the unit's maximum hourly load as reported in accordance with this subpart and by 8,760 hours/control period, and divided by 2,000 lb/ton.

*Common stack* means a single flue through which emissions from 2 or more units are exhausted.

*Compliance account* means an Allowance Management System account, established by the Administrator for a CSAPR NO<sub>x</sub> Annual source under this subpart, in which any CSAPR NO<sub>x</sub> Annual allowance allocations to the CSAPR NO<sub>x</sub> Annual units at the source are recorded and in which are held any CSAPR NO<sub>x</sub> Annual allowances available for use for a control period in a given year in complying with the source's CSAPR NO<sub>x</sub> Annual emissions limitation in accordance with §§ 97.406 and 97.424.

*Continuous emission monitoring system* or *CEMS* means the equipment required under this subpart to sample, analyze, measure, and provide, by means of readings recorded at least once every 15 minutes and using an automated data acquisition and handling system (DAHS), a permanent record of NO<sub>x</sub> emissions, stack gas volumetric flow rate, stack gas moisture content, and O<sub>2</sub> or CO<sub>2</sub> concentration (as applicable), in a manner consistent with part 75 of this chapter and §§ 97.430 through 97.435. The following systems are the principal types of continuous emission monitoring systems:

(1) A flow monitoring system, consisting of a stack flow rate monitor and an automated data acquisition and handling system and providing a permanent, continuous record of stack gas volumetric flow rate, in standard cubic feet per hour (scfh);

(2) A NO<sub>x</sub> concentration monitoring system, consisting of a NO<sub>x</sub> pollutant concentration monitor and an automated data acquisition and handling system and providing a permanent, continuous record of NO<sub>x</sub> emissions, in parts per million (ppm);

(3) A NO<sub>x</sub> emission rate (or NO<sub>x</sub>-diluent) monitoring system, consisting of a NO<sub>x</sub> pollutant concentration mon-

itor, a diluent gas (CO<sub>2</sub> or O<sub>2</sub>) monitor, and an automated data acquisition and handling system and providing a permanent, continuous record of NO<sub>x</sub> concentration, in parts per million (ppm), diluent gas concentration, in percent CO<sub>2</sub> or O<sub>2</sub>, and NO<sub>x</sub> emission rate, in pounds per million British thermal units (lb/mmBtu);

(4) A moisture monitoring system, as defined in § 75.11(b)(2) of this chapter and providing a permanent, continuous record of the stack gas moisture content, in percent H<sub>2</sub>O;

(5) A CO<sub>2</sub> monitoring system, consisting of a CO<sub>2</sub> pollutant concentration monitor (or an O<sub>2</sub> monitor plus suitable mathematical equations from which the CO<sub>2</sub> concentration is derived) and an automated data acquisition and handling system and providing a permanent, continuous record of CO<sub>2</sub> emissions, in percent CO<sub>2</sub>; and

(6) An O<sub>2</sub> monitoring system, consisting of an O<sub>2</sub> concentration monitor and an automated data acquisition and handling system and providing a permanent, continuous record of O<sub>2</sub>, in percent O<sub>2</sub>.

*Control period* means the period starting January 1 of a calendar year, except as provided in § 97.406(c)(3), and ending on December 31 of the same year, inclusive.

*CSAPR NO<sub>x</sub> Annual allowance* means a limited authorization issued and allocated or auctioned by the Administrator under this subpart, or by a State or permitting authority under a SIP revision approved by the Administrator under § 52.38(a)(3), (4), or (5) of this chapter, to emit one ton of NO<sub>x</sub> during a control period of the specified calendar year for which the authorization is allocated or auctioned or of any calendar year thereafter under the CSAPR NO<sub>x</sub> Annual Trading Program.

*CSAPR NO<sub>x</sub> Annual allowance deduction* or *deduct CSAPR NO<sub>x</sub> Annual allowances* means the permanent withdrawal of CSAPR NO<sub>x</sub> Annual allowances by the Administrator from a compliance account (*e.g.*, in order to account for compliance with the CSAPR NO<sub>x</sub> Annual emissions limitation) or from an assurance account (*e.g.*, in order to account for compliance with the assurance provisions under §§ 97.406 and 97.425).

*CSAPR NO<sub>x</sub> Annual allowances held or hold CSAPR NO<sub>x</sub> Annual allowances* means the CSAPR NO<sub>x</sub> Annual allowances treated as included in an Allowance Management System account as of a specified point in time because at that time they:

(1) Have been recorded by the Administrator in the account or transferred into the account by a correctly submitted, but not yet recorded, CSAPR NO<sub>x</sub> Annual allowance transfer in accordance with this subpart; and

(2) Have not been transferred out of the account by a correctly submitted, but not yet recorded, CSAPR NO<sub>x</sub> Annual allowance transfer in accordance with this subpart.

*CSAPR NO<sub>x</sub> Annual emissions limitation* means, for a CSAPR NO<sub>x</sub> Annual source, the tonnage of NO<sub>x</sub> emissions authorized in a control period in a given year by the CSAPR NO<sub>x</sub> Annual allowances available for deduction for the source under § 97.424(a) for such control period.

*CSAPR NO<sub>x</sub> Annual source* means a source that includes one or more CSAPR NO<sub>x</sub> Annual units.

*CSAPR NO<sub>x</sub> Annual Trading Program* means a multi-state NO<sub>x</sub> air pollution control and emission reduction program established in accordance with this subpart and § 52.38(a) of this chapter (including such a program that is revised in a SIP revision approved by the Administrator under § 52.38(a)(3) or (4) of this chapter or that is established in a SIP revision approved by the Administrator under § 52.38(a)(5) of this chapter), as a means of mitigating interstate transport of fine particulates and NO<sub>x</sub>.

*CSAPR NO<sub>x</sub> Annual unit* means a unit that is subject to the CSAPR NO<sub>x</sub> Annual Trading Program.

*CSAPR NO<sub>x</sub> Ozone Season Group 1 Trading Program* means a multi-state NO<sub>x</sub> air pollution control and emission reduction program established in accordance with subpart BBBB of this part and § 52.38(b)(1), (b)(2)(i) and (ii), (b)(3) through (5), and (b)(10) through (12) of this chapter (including such a program that is revised in a SIP revision approved by the Administrator under § 52.38(b)(3) or (4) of this chapter or that is established in a SIP revision approved by the Administrator under

§ 52.38(b)(5) of this chapter), as a means of mitigating interstate transport of ozone and NO<sub>x</sub>.

*CSAPR NO<sub>x</sub> Ozone Season Group 2 Trading Program* means a multi-state NO<sub>x</sub> air pollution control and emission reduction program established in accordance with subpart EEEEE of this part and § 52.38(b)(1), (b)(2)(i) and (iii), (b)(6) through (11), and (b)(13) of this chapter (including such a program that is revised in a SIP revision approved by the Administrator under § 52.38(b)(7) or (8) of this chapter or that is established in a SIP revision approved by the Administrator under § 52.38(b)(6) or (9) of this chapter), as a means of mitigating interstate transport of ozone and NO<sub>x</sub>.

*CSAPR SO<sub>2</sub> Group 1 Trading Program* means a multi-state SO<sub>2</sub> air pollution control and emission reduction program established in accordance with subpart CCCCC of this part and § 52.39(a), (b), (d) through (f), and (j) through (l) of this chapter (including such a program that is revised in a SIP revision approved by the Administrator under § 52.39(d) or (e) of this chapter or that is established in a SIP revision approved by the Administrator under § 52.39(f) of this chapter), as a means of mitigating interstate transport of fine particulates and SO<sub>2</sub>.

*CSAPR SO<sub>2</sub> Group 2 Trading Program* means a multi-state SO<sub>2</sub> air pollution control and emission reduction program established in accordance with subpart DDDDD of this part and § 52.39(a), (c), (g) through (k), and (m) of this chapter (including such a program that is revised in a SIP revision approved by the Administrator under § 52.39(g) or (h) of this chapter or that is established in a SIP revision approved by the Administrator under § 52.39(i) of this chapter), as a means of mitigating interstate transport of fine particulates and SO<sub>2</sub>.

*Designated representative* means, for a CSAPR NO<sub>x</sub> Annual source and each CSAPR NO<sub>x</sub> Annual unit at the source, the natural person who is authorized by the owners and operators of the source and all such units at the source, in accordance with this subpart, to represent and legally bind each owner and operator in matters pertaining to the CSAPR NO<sub>x</sub> Annual Trading Program. If the CSAPR NO<sub>x</sub> Annual source is

also subject to the Acid Rain Program, CSAPR NO<sub>x</sub> Ozone Season Group 1 Trading Program, CSAPR NO<sub>x</sub> Ozone Season Group 2 Trading Program, CSAPR SO<sub>2</sub> Group 1 Trading Program, or CSAPR SO<sub>2</sub> Group 2 Trading Program, then this natural person shall be the same natural person as the designated representative as defined in the respective program.

*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 modified by the Administrator:

(1) In accordance with this subpart; and

(2) With regard to a period before the unit or source is required to measure, record, and report such air pollutants in accordance with this subpart, in accordance with part 75 of this chapter.

*Excess emissions* means any ton of emissions from the CSAPR NO<sub>x</sub> Annual units at a CSAPR NO<sub>x</sub> Annual source during a control period in a given year that exceeds the CSAPR NO<sub>x</sub> Annual emissions limitation for the source for such control period.

*Fossil fuel* means—

(1) Natural gas, petroleum, coal, or any form of solid, liquid, or gaseous fuel derived from such material; or

(2) For purposes of applying the limitation on “average annual fuel consumption of fossil fuel” in § 97.404(b)(2)(i)(B) and (ii), natural gas, petroleum, coal, or any form of solid, liquid, or gaseous fuel derived from such material for the purpose of creating useful heat.

*Fossil-fuel-fired* means, with regard to a unit, combusting any amount of fossil fuel in 2005 or any calendar year thereafter.

*General account* means an Allowance Management System account, established under this subpart, that is not a compliance account or an assurance account.

*Generator* means a device that produces electricity.

*Heat input* means, for a unit for a specified period of unit operating time, the product (in mmBtu) of the gross calorific value of the fuel (in mmBtu/lb) fed into the unit multiplied by the fuel feed rate (in lb of fuel/time) and

unit operating time, as measured, recorded, and reported to the Administrator by the designated representative and as modified by the Administrator in accordance with this subpart and excluding the heat derived from preheated combustion air, recirculated flue gases, or exhaust.

*Heat input rate* means, for a unit, the quotient (in mmBtu/hr) of the amount of heat input for a specified period of unit operating time (in mmBtu) divided by unit operating time (in hr) or, for a unit and a specific fuel, the amount of heat input attributed to the fuel (in mmBtu) divided by the unit operating time (in hr) during which the unit combusts the fuel.

*Heat rate* means, for a unit, the quotient (in mmBtu/unit of load) of the unit’s maximum design heat input rate (in Btu/hr) divided by the product of 1,000,000 Btu/mmBtu and the unit’s maximum hourly load.

*Indian country* means “Indian country” as defined in 18 U.S.C. 1151.

*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 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 no less than 25 years or 70 percent of the economic useful life of the unit determined as of the time the unit is 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.

*Maximum design heat input rate* means, for a unit, the maximum amount of fuel per hour (in Btu/hr) that the unit is capable of combusting on a steady state basis as of the initial installation of the unit as specified by the manufacturer of the unit.

*Monitoring system* means any monitoring system that meets the requirements of this subpart, including a continuous emission monitoring system, an alternative monitoring system, or an excepted monitoring system under part 75 of this chapter.

*Nameplate capacity* means, starting from the initial installation of a generator, the maximum electrical generating output (in MWe, rounded to the nearest tenth) that the generator is capable of producing on a steady state basis and during continuous operation (when not restricted by seasonal or other deratings) as of such installation as specified by the manufacturer of the generator or, starting from the completion of any subsequent physical change in the generator resulting in an increase in the maximum electrical generating output that the generator is capable of producing on a steady state basis and during continuous operation (when not restricted by seasonal or other deratings), such increased maximum amount (in MWe, rounded to the nearest tenth) as of such completion as specified by the person conducting the physical change.

*Natural gas* means “natural gas” as defined in §72.2 of this chapter.

*Newly affected CSAPR NO<sub>x</sub> Annual unit* means a unit that was not a CSAPR NO<sub>x</sub> Annual unit when it began operating but that thereafter becomes a CSAPR NO<sub>x</sub> Annual unit.

*Operate or operation* means, with regard to a unit, to combust fuel.

*Operator* means, for a CSAPR NO<sub>x</sub> Annual source or a CSAPR NO<sub>x</sub> Annual unit at a source respectively, any person who operates, controls, or supervises a CSAPR NO<sub>x</sub> Annual unit at the source or the CSAPR NO<sub>x</sub> Annual unit and shall include, but not be limited to, any holding company, utility system, or plant manager of such source or unit.

*Owner* means, for a CSAPR NO<sub>x</sub> Annual source or a CSAPR NO<sub>x</sub> Annual unit at a source respectively, any of the following persons:

- (1) Any holder of any portion of the legal or equitable title in a CSAPR NO<sub>x</sub> Annual unit at the source or the CSAPR NO<sub>x</sub> Annual unit;
- (2) Any holder of a leasehold interest in a CSAPR NO<sub>x</sub> Annual unit at the

source or the CSAPR NO<sub>x</sub> Annual unit, provided that, 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) on the revenues or income from such CSAPR NO<sub>x</sub> Annual unit; and

(3) Any purchaser of power from a CSAPR NO<sub>x</sub> Annual unit at the source or the CSAPR NO<sub>x</sub> Annual unit under a life-of-the-unit, firm power contractual arrangement.

*Permanently retired* means, with regard to a unit, a unit that is unavailable for service and that the unit’s owners and operators do not expect to return to service in the future.

*Permitting authority* means “permitting authority” as defined in §§70.2 and 71.2 of this chapter.

*Potential electrical output capacity* means, for a unit (in MWh/yr), 33 percent of the unit’s maximum design heat input rate (in Btu/hr), divided by 3,413 Btu/kWh, divided by 1,000 kWh/MWh, and multiplied by 8,760 hr/yr.

*Receive or receipt of* means, when referring to the Administrator, when coming into possession of a document, information, or correspondence (whether sent in hard copy or by authorized electronic transmission), as indicated in an official log, or by a notation made on the document, information, or correspondence, by the Administrator in the regular course of business.

*Recordation, record, or recorded* means, with regard to CSAPR NO<sub>x</sub> Annual allowances, the moving of CSAPR NO<sub>x</sub> Annual allowances by the Administrator into, out of, or between Allowance Management System accounts, for purposes of allocation, auction, transfer, or deduction.

*Reference method* means any direct test method of sampling and analyzing for an air pollutant as specified in §75.22 of this chapter.

*Replacement, replace, or replaced* means, with regard to a unit, the demolishing of a unit, or the permanent retirement and permanent disabling of a unit, and the construction of another unit (the replacement unit) to be used instead of the demolished or retired unit (the replaced unit).

*Sequential use of energy* means:

(1) The use of reject heat from electricity production in a useful thermal energy application or process; or

(2) The use of reject heat from a useful thermal energy application or process in electricity production.

*Serial number* means, for a CSAPR NO<sub>x</sub> Annual allowance, the unique identification number assigned to each CSAPR NO<sub>x</sub> Annual allowance by the Administrator.

*Solid waste incineration unit* means a stationary, fossil-fuel-fired boiler or stationary, fossil-fuel-fired combustion turbine that is a "solid waste incineration unit" as defined in section 129(g)(1) of the Clean Air Act.

*Source* means all buildings, structures, or installations located in one or more contiguous or adjacent properties under common control of the same person or persons. This definition does not change or otherwise affect the definition of "major source", "stationary source", or "source" as set forth and implemented in a title V operating permit program or any other program under the Clean Air Act.

*State* means one of the States that is subject to the CSAPR NO<sub>x</sub> Annual Trading Program pursuant to §52.38(a) of this chapter.

*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 means of dispatch or transmission and delivery;

(4) Provided that compliance with any "submission" or "service" deadline shall be determined by the date of dispatch, transmission, or mailing and not the date of receipt.

*Topping-cycle unit* means a unit in which the energy input to the unit is first used to produce useful power, including electricity, where at least some of the reject heat from the electricity production is then used to provide useful thermal energy.

*Total energy input* means, for a unit, total energy of all forms supplied to the unit, excluding energy produced by the unit. Each form of energy supplied

shall be measured by the lower heating value of that form of energy calculated as follows:

$$\text{LHV} = \text{HHV} - 10.55(\text{W} + 9\text{H})$$

where:

LHV = lower heating value of the form of energy in Btu/lb.

HHV = higher heating value of the form of energy in Btu/lb.

W = weight % of moisture in the form of energy, and

H = weight % of hydrogen in the form of energy.

*Total energy output* means, for a unit, the sum of useful power and useful thermal energy produced by the unit.

*Unit* means a stationary, fossil-fuel-fired boiler, stationary, fossil-fuel-fired combustion turbine, or other stationary, fossil-fuel-fired combustion device. A unit that undergoes a physical change or is moved to a different location or source shall continue to be treated as the same unit. A unit (the replaced unit) that is replaced by another unit (the replacement unit) at the same or a different source shall continue to be treated as the same unit, and the replacement unit shall be treated as a separate unit.

*Unit operating day* means, with regard to a unit, a calendar day in which the unit combusts any fuel.

*Unit operating hour or hour of unit operation* means, with regard to a unit, an hour in which the unit combusts any fuel.

*Useful power* means, with regard to a unit, electricity or mechanical energy that the unit makes available for use, excluding any such energy used in the power production process (which process includes, but is not limited to, any on-site processing or treatment of fuel combusted at the unit and any on-site emission controls).

*Useful thermal energy* means thermal energy that is:

(1) Made available to an industrial or commercial process (not a power production process), excluding any heat contained in condensate return or makeup water;

(2) Used in a heating application (e.g., space heating or domestic hot water heating); or

(3) Used in a space cooling application (i.e., in an absorption chiller).

## Environmental Protection Agency

## § 97.404

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

[76 FR 48379, Aug. 8, 2011, as amended at 81 FR 74604, Oct. 26, 2016]

### § 97.403 Measurements, abbreviations, and acronyms.

Measurements, abbreviations, and acronyms used in this subpart are defined as follows:

Btu—British thermal unit  
CO<sub>2</sub>—carbon dioxide  
CSAPR—Cross-State Air Pollution Rule  
H<sub>2</sub>O—water  
hr—hour  
kWh—kilowatt-hour  
lb—pound  
mmBtu—million Btu  
MWe—megawatt electrical  
MWh—megawatt-hour  
NO<sub>x</sub>—nitrogen oxides  
O<sub>2</sub>—oxygen  
ppm—parts per million  
scfh—standard cubic feet per hour  
SIP—State implementation plan  
SO<sub>2</sub>—sulfur dioxide  
TR—Transport Rule  
yr—year

[76 FR 48379, Aug. 8, 2011, as amended at 81 FR 74605, Oct. 26, 2016]

### § 97.404 Applicability.

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

(1) The following units in a State (and Indian country within the borders of such State) shall be CSAPR NO<sub>x</sub> Annual units, and any source that includes one or more such units shall be a CSAPR NO<sub>x</sub> Annual source, subject to the requirements of this subpart: Any stationary, fossil-fuel-fired boiler or stationary, fossil-fuel-fired combustion turbine serving at any time, on or after January 1, 2005, 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 CSAPR NO<sub>x</sub> Annual 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 CSAPR NO<sub>x</sub> Annual 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) Any unit in a State (and Indian country within the borders of such State) that otherwise is a CSAPR NO<sub>x</sub> Annual unit under paragraph (a) of this section and that meets the requirements set forth in paragraph (b)(1)(i) or (2)(i) of this section shall not be a CSAPR NO<sub>x</sub> Annual unit:

(1)(i) Any unit:

(A) Qualifying as a cogeneration unit throughout the later of 2005 or the 12-month period starting on the date the unit first produces electricity and continuing to qualify as a cogeneration unit throughout each calendar year ending after the later of 2005 or such 12-month period; and

(B) Not supplying in 2005 or any calendar year thereafter more than one-third of the unit's potential electrical output capacity or 219,000 MWh, whichever is greater, to any utility power distribution system for sale.

(ii) If, after qualifying under paragraph (b)(1)(i) of this section as not being a CSAPR NO<sub>x</sub> Annual unit, a unit subsequently no longer meets all the requirements of paragraph (b)(1)(i) of this section, the unit shall become a CSAPR NO<sub>x</sub> Annual 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. The unit shall thereafter continue to be a CSAPR NO<sub>x</sub> Annual unit.

(2)(i) Any unit:

(A) Qualifying as a solid waste incineration unit throughout the later of 2005 or the 12-month period starting on the date the unit first produces electricity and continuing to qualify as a solid waste incineration unit throughout each calendar year ending after the later of 2005 or such 12-month period; and

(B) With an average annual fuel consumption of fossil fuel for the first 3 consecutive calendar years of operation starting no earlier than 2005 of less than 20 percent (on a Btu basis) and an average annual fuel consumption of fossil fuel for any 3 consecutive