

ILLINOIS POLLUTION CONTROL BOARD

October 19, 2000

IN THE MATTER OF: )  
 )  
PROPOSED NEW 35 ILL. ADM. CODE 217.SUBPART ) R01-17  
U, NO<sub>x</sub> CONTROL AND TRADING PROGRAM FOR ) (Rulemaking – Air)  
SPECIFIED NO<sub>x</sub> GENERATING UNITS, SUBPART X, )  
VOLUNTARY NO<sub>x</sub> EMISSIONS REDUCTION )  
PROGRAM, AND AMENDMENTS TO 35 ILL. ADM. )  
CODE 211 )  
 )  
 )

Proposed Rule. First Notice.

ORDER OF THE BOARD (by M. McFawn):

On October 16, 2000, the Illinois Environmental Protection Agency (Agency) filed a proposal to amend 35 Ill. Adm. Code 211 and 217 of the Illinois air regulations. This proposal was filed pursuant to the fast track rulemaking provisions of Section 28.5 of the Environmental Protection Act (Act) 414 ILCS 5/28.5 (1998). This order, which is supported by a separately issued Board opinion adopted today, directs publication of the proposed amendments in the *Illinois Register*. The opinion describes the fast track rulemaking process and details statutory rulemaking milestones in the proceeding.

The Board directs the Clerk to cause the filing of the following rules with the Secretary of State for first-notice publication in the *Illinois Register*.

TITLE 35: ENVIRONMENTAL PROTECTION  
SUBTITLE B: AIR POLLUTION  
CHAPTER I: POLLUTION CONTROL BOARD

SUBCHAPTER c: EMISSION STANDARDS AND LIMITATIONS FOR  
STATIONARY SOURCES

PART 211

DEFINITIONS AND GENERAL PROVISIONS

SUBPART A: GENERAL PROVISIONS

Section  
211.101 Incorporations by Reference  
211.102 Abbreviations and Conversion Factors

SUBPART B: DEFINITIONS

Section  
211.121 Other Definitions  
211.122 Definitions (Repealed)

211.130	Accelacota
211.150	Accumulator
211.170	Acid Gases
211.210	Actual Heat Input
211.230	Adhesive
211.240	Adhesion Promoter
211.250	Aeration
211.270	Aerosol Can Filling Line
211.290	Afterburner
211.310	Air Contaminant
211.330	Air Dried Coatings
211.350	Air Oxidation Process
211.370	Air Pollutant
211.390	Air Pollution
211.410	Air Pollution Control Equipment
211.430	Air Suspension Coater/Dryer
211.450	Airless Spray
211.470	Air Assisted Airless Spray
211.474	Alcohol
211.484	Animal
211.485	Animal Pathological Waste
211.490	Annual Grain Through-Put
211.495	Anti-Glare/Safety Coating
211.510	Application Area
211.530	Architectural Coating
211.550	As Applied
211.560	As-Applied Fountain Solution
211.570	Asphalt
211.590	Asphalt Prime Coat
211.610	Automobile
211.630	Automobile or Light-Duty Truck Assembly Source or Automobile or Light-Duty Truck Manufacturing Plant
211.650	Automobile or Light-Duty Truck Refinishing
211.660	Automotive/Transportation Plastic Parts
211.670	Baked Coatings
211.680	Bakery Oven
211.685	Basecoat/Clearcoat System
211.690	Batch Loading
211.695	Batch Operation
211.696	Batch Process Train
211.710	Bead-Dipping
211.730	Binders
211.750	British Thermal Unit
211.770	Brush or Wipe Coating
211.790	Bulk Gasoline Plant
211.810	Bulk Gasoline Terminal

211.820	Business Machine Plastic Parts
211.830	Can
211.850	Can Coating
211.870	Can Coating Line
211.890	Capture
211.910	Capture Device
211.930	Capture Efficiency
211.950	Capture System
211.970	Certified Investigation
211.980	Chemical Manufacturing Process Unit
211.990	Choke Loading
211.1010	Clean Air Act
211.1050	Cleaning and Separating Operation
211.1070	Cleaning Materials
211.1090	Clear Coating
211.1110	Clear Topcoat
211.1130	Closed Purge System
211.1150	Closed Vent System
211.1170	Coal Refuse
211.1190	Coating
211.1210	Coating Applicator
211.1230	Coating Line
211.1250	Coating Plant
211.1270	Coil Coating
211.1290	Coil Coating Line
211.1310	Cold Cleaning
211.1330	Complete Combustion
211.1350	Component
211.1370	Concrete Curing Compounds
211.1390	Concentrated Nitric Acid Manufacturing Process
211.1410	Condensate
211.1430	Condensible PM-10
211.1465	Continuous Automatic Stoking
211.1467	Continuous Coater
211.1470	Continuous Process
211.1490	Control Device
211.1510	Control Device Efficiency
211.1520	Conventional Air Spray
211.1530	Conventional Soybean Crushing Source
211.1550	Conveyorized Degreasing
211.1570	Crude Oil
211.1590	Crude Oil Gathering
211.1610	Crushing
211.1630	Custody Transfer
211.1650	Cutback Asphalt
211.1670	Daily-Weighted Average VOM Content

211.1690	Day
211.1710	Degreaser
211.1730	Delivery Vessel
211.1750	Dip Coating
211.1770	Distillate Fuel Oil
211.1780	Distillation Unit
211.1790	Drum
211.1810	Dry Cleaning Operation or Dry Cleaning Facility
211.1830	Dump-Pit Area
211.1850	Effective Grate Area
211.1870	Effluent Water Separator
211.1875	Elastomeric Materials
211.1880	Electromagnetic Interference/Radio Frequency (EMI/RFI) Shielding Coatings
211.1885	Electronic Component
211.1890	Electrostatic Bell or Disc Spray
211.1900	Electrostatic Prep Coat
211.1910	Electrostatic Spray
211.1920	Emergency or Standby Unit
211.1930	Emission Rate
211.1950	Emission Unit
211.1970	Enamel
211.1990	Enclose
211.2010	End Sealing Compound Coat
211.2030	Enhanced Under-the-Cup Fill
211.2050	Ethanol Blend Gasoline
211.2070	Excess Air
211.2090	Excessive Release
211.2110	Existing Grain-Drying Operation (Repealed)
211.2130	Existing Grain-Handling Operation (Repealed)
211.2150	Exterior Base Coat
211.2170	Exterior End Coat
211.2190	External Floating Roof
211.2210	Extreme Performance Coating
211.2230	Fabric Coating
211.2250	Fabric Coating Line
211.2270	Federally Enforceable Limitations and Conditions
211.2285	Feed Mill
211.2290	Fermentation Time
211.2300	Fill
211.2310	Final Repair Coat
211.2330	Firebox
211.2350	Fixed-Roof Tank
211.2360	Flexible Coating
211.2365	Flexible Operating Unit
211.2370	Flexographic Printing

211.2390	Flexographic Printing Line
211.2410	Floating Roof
211.2430	Fountain Solution
211.2450	Freeboard Height
211.2470	Fuel Combustion Emission Unit or Fuel Combustion Emission Source
211.2490	Fugitive Particulate Matter
211.2510	Full Operating Flowrate
211.2530	Gas Service
211.2550	Gas/Gas Method
211.2570	Gasoline
211.2590	Gasoline Dispensing Operation or Gasoline Dispensing Facility
211.2610	Gel Coat
211.2630	Gloss Reducers
211.2650	Grain
211.2670	Grain-Drying Operation
211.2690	Grain-Handling and Conditioning Operation
211.2710	Grain-Handling Operation
211.2730	Green-Tire Spraying
211.2750	Green Tires
211.2770	Gross Heating Value
211.2790	Gross Vehicle Weight Rating
211.2810	Heated Airless Spray
211.2830	Heatset
211.2850	Heatset Web Offset Lithographic Printing Line
211.2870	Heavy Liquid
211.2890	Heavy Metals
211.2910	Heavy Off-Highway Vehicle Products
211.2930	Heavy Off-Highway Vehicle Products Coating
211.2950	Heavy Off-Highway Vehicle Products Coating Line
211.2970	High Temperature Aluminum Coating
211.2990	High Volume Low Pressure (HVL) Spray
211.3010	Hood
211.3030	Hot Well
211.3050	Housekeeping Practices
211.3070	Incinerator
211.3090	Indirect Heat Transfer
211.3110	Ink
211.3130	In-Process Tank
211.3150	In-Situ Sampling Systems
211.3170	Interior Body Spray Coat
211.3190	Internal-Floating Roof
211.3210	Internal Transferring Area
211.3230	Lacquers
211.3250	Large Appliance
211.3270	Large Appliance Coating
211.3290	Large Appliance Coating Line

211.3310	Light Liquid
211.3330	Light-Duty Truck
211.3350	Light Oil
211.3370	Liquid/Gas Method
211.3390	Liquid-Mounted Seal
211.3410	Liquid Service
211.3430	Liquids Dripping
211.3450	Lithographic Printing Line
211.3470	Load-Out Area
211.3480	Loading Event
211.3490	Low Solvent Coating
211.3500	Lubricating Oil
211.3510	Magnet Wire
211.3530	Magnet Wire Coating
211.3550	Magnet Wire Coating Line
211.3570	Major Dump Pit
211.3590	Major Metropolitan Area (MMA)
211.3610	Major Population Area (MPA)
211.3620	Manually Operated Equipment
211.3630	Manufacturing Process
211.3650	Marine Terminal
211.3660	Marine Vessel
211.3670	Material Recovery Section
211.3690	Maximum Theoretical Emissions
211.3695	Maximum True Vapor Pressure
211.3710	Metal Furniture
211.3730	Metal Furniture Coating
211.3750	Metal Furniture Coating Line
211.3770	Metallic Shoe-Type Seal
211.3790	Miscellaneous Fabricated Product Manufacturing Process
211.3810	Miscellaneous Formulation Manufacturing Process
211.3830	Miscellaneous Metal Parts and Products
211.3850	Miscellaneous Metal Parts and Products Coating
211.3870	Miscellaneous Metal Parts or Products Coating Line
211.3890	Miscellaneous Organic Chemical Manufacturing Process
211.3910	Mixing Operation
211.3915	Mobile Equipment
211.3930	Monitor
211.3950	Monomer
211.3960	Motor Vehicles
211.3965	Motor Vehicle Refinishing
211.3970	Multiple Package Coating
211.3990	New Grain-Drying Operation (Repealed)
211.4010	New Grain-Handling Operation (Repealed)
211.4030	No Detectable Volatile Organic Material Emissions
211.4050	Non-Contact Process Water Cooling Tower

211.4055	Non-Flexible Coating
211.4065	Non-Heatset
<u>211.4067</u>	<u>NO<sub>x</sub> Trading Program</u>
211.4070	Offset
211.4090	One Hundred Percent Acid
211.4110	One-Turn Storage Space
211.4130	Opacity
211.4150	Opaque Stains
211.4170	Open Top Vapor Degreasing
211.4190	Open-Ended Valve
211.4210	Operator of a Gasoline Dispensing Operation or Operator of a Gasoline Dispensing Facility
211.4230	Organic Compound
211.4250	Organic Material and Organic Materials
211.4260	Organic Solvent
211.4270	Organic Vapor
211.4290	Oven
211.4310	Overall Control
211.4330	Overvarnish
211.4350	Owner of a Gasoline Dispensing Operation or Owner of a Gasoline Dispensing Facility
211.4370	Owner or Operator
211.4390	Packaging Rotogravure Printing
211.4410	Packaging Rotogravure Printing Line
211.4430	Pail
211.4450	Paint Manufacturing Source or Paint Manufacturing Plant
211.4470	Paper Coating
211.4490	Paper Coating Line
211.4510	Particulate Matter
211.4530	Parts Per Million (Volume) or PPM (Vol)
211.4550	Person
211.4590	Petroleum
211.4610	Petroleum Liquid
211.4630	Petroleum Refinery
211.4650	Pharmaceutical
211.4670	Pharmaceutical Coating Operation
211.4690	Photochemically Reactive Material
211.4710	Pigmented Coatings
211.4730	Plant
211.4740	Plastic Part
211.4750	Plasticizers
211.4770	PM-10
211.4790	Pneumatic Rubber Tire Manufacture
211.4810	Polybasic Organic Acid Partial Oxidation Manufacturing Process
211.4830	Polyester Resin Material(s)
211.4850	Polyester Resin Products Manufacturing Process

211.4870	Polystyrene Plant
211.4890	Polystyrene Resin
211.4910	Portable Grain-Handling Equipment
211.4930	Portland Cement Manufacturing Process Emission Source
211.4950	Portland Cement Process or Portland Cement Manufacturing Plant
211.4970	Potential to Emit
211.4990	Power Driven Fastener Coating
211.5010	Precoat
211.5030	Pressure Release
211.5050	Pressure Tank
211.5060	Pressure/Vacuum Relief Valve
211.5061	Pretreatment Wash Primer
211.5065	Primary Product
211.5070	Prime Coat
211.5080	Primer Sealer
211.5090	Primer Surfacer Coat
211.5110	Primer Surfacer Operation
211.5130	Primers
211.5150	Printing
211.5170	Printing Line
211.5185	Process Emission Source
211.5190	Process Emission Unit
211.5210	Process Unit
211.5230	Process Unit Shutdown
211.5245	Process Vent
211.5250	Process Weight Rate
211.5270	Production Equipment Exhaust System
211.5310	Publication Rotogravure Printing Line
211.5330	Purged Process Fluid
211.5340	Rated Heat Input Capacity
211.5350	Reactor
211.5370	Reasonably Available Control Technology (RACT)
211.5390	Reclamation System
211.5410	Refiner
211.5430	Refinery Fuel Gas
211.5450	Refinery Fuel Gas System
211.5470	Refinery Unit or Refinery Process Unit
211.5480	Reflective Argent Coating
211.5490	Refrigerated Condenser
211.5500	Regulated Air Pollutant
211.5510	Reid Vapor Pressure
211.5530	Repair
211.5550	Repair Coat
211.5570	Repaired
211.5590	Residual Fuel Oil
211.5600	Resist Coat

211.5610	Restricted Area
211.5630	Retail Outlet
211.5650	Ringelmann Chart
211.5670	Roadway
211.5690	Roll Coater
211.5710	Roll Coating
211.5730	Roll Printer
211.5750	Roll Printing
211.5770	Rotogravure Printing
211.5790	Rotogravure Printing Line
211.5810	Safety Relief Valve
211.5830	Sandblasting
211.5850	Sanding Sealers
211.5870	Screening
211.5890	Sealer
211.5910	Semi-Transparent Stains
211.5930	Sensor
211.5950	Set of Safety Relief Valves
211.5970	Sheet Basecoat
211.5980	Sheet-Fed
211.5990	Shotblasting
211.6010	Side-Seam Spray Coat
211.6025	Single Unit Operation
211.6030	Smoke
211.6050	Smokeless Flare
211.6060	Soft Coat
211.6070	Solvent
211.6090	Solvent Cleaning
211.6110	Solvent Recovery System
<u>211.6130</u>	<u>Source</u>
211.6140	Specialty Coatings
211.6145	Specialty Coatings for Motor Vehicles
211.6150	Specialty High Gloss Catalyzed Coating
211.6170	Specialty Leather
211.6190	Specialty Soybean Crushing Source
211.6210	Splash Loading
211.6230	Stack
211.6250	Stain Coating
211.6270	Standard Conditions
211.6290	Standard Cubic Foot (scf)
211.6310	Start-Up
211.6330	Stationary Emission Source
211.6350	Stationary Emission Unit
211.6355	Stationary Gas Turbine
211.6360	Stationary Reciprocating Internal Combustion Engine
211.6370	Stationary Source

211.6390	Stationary Storage Tank
211.6400	Stencil Coat
211.6410	Storage Tank or Storage Vessel
211.6420	Strippable Spray Booth Coating
211.6430	Styrene Devolatilizer Unit
211.6450	Styrene Recovery Unit
211.6470	Submerged Loading Pipe
211.6490	Substrate
211.6510	Sulfuric Acid Mist
211.6530	Surface Condenser
211.6540	Surface Preparation Materials
211.6550	Synthetic Organic Chemical or Polymer Manufacturing Plant
211.6570	Tablet Coating Operation
211.6580	Texture Coat
211.6590	Thirty-Day Rolling Average
211.6610	Three-Piece Can
211.6620	Three or Four Stage Coating System
211.6630	Through-the-Valve Fill
211.6650	Tooling Resin
211.6670	Topcoat
211.6690	Topcoat Operation
211.6695	Topcoat System
211.6710	Touch-Up
211.6720	Touch-Up Coating
211.6730	Transfer Efficiency
211.6750	Tread End Cementing
211.6770	True Vapor Pressure
211.6790	Turnaround
211.6810	Two-Piece Can
211.6830	Under-the-Cup Fill
211.6850	Undertread Cementing
211.6860	Uniform Finish Blender
211.6870	Unregulated Safety Relief Valve
211.6880	Vacuum Metallizing
211.6890	Vacuum Producing System
211.6910	Vacuum Service
211.6930	Valves Not Externally Regulated
211.6950	Vapor Balance System
211.6970	Vapor Collection System
211.6990	Vapor Control System
211.7010	Vapor-Mounted Primary Seal
211.7030	Vapor Recovery System
211.7050	Vapor-Suppressed Polyester Resin
211.7070	Vinyl Coating
211.7090	Vinyl Coating Line
211.7110	Volatile Organic Liquid (VOL)

211.7130	Volatile Organic Material Content (VOMC)
211.7150	Volatile Organic Material (VOM) or Volatile Organic Compound (VOC)
211.7170	Volatile Petroleum Liquid
211.7190	Wash Coat
211.7200	Washoff Operations
211.7210	Wastewater (Oil/Water) Separator
211.7230	Weak Nitric Acid Manufacturing Process
211.7250	Web
211.7270	Wholesale Purchase – Consumer
211.7290	Wood Furniture
211.7310	Wood Furniture Coating
211.7330	Wood Furniture Coating Line
211.7350	Woodworking
211.7400	Yeast Percentage

Appendix A Rule into Section Table

Appendix B Section into Rule Table

AUTHORITY: Implementing Sections 9, 9.1, 9.9 and 10 and authorized by Sections 27 and 28.5 of the Environmental Protection Act [415 ILCS 5/9, 9.1, 9.9, 10, 27 and 28.5].

SOURCE: Adopted as Chapter 2: Air Pollution, Rule 201: Definitions, R71-23, 4 PCB 191, filed and effective April 14, 1972; amended in R74-2 and R75-5, 32 PCB 295, at 3 Ill. Reg. 5, p. 777, effective February 3, 1979; amended in R78-3 and 4, 35 PCB 75 and 243, at 3 Ill. Reg. 30, p. 124, effective July 28, 1979; amended in R80-5, at 7 Ill. Reg. 1244, effective January 21, 1983; codified at 7 Ill. Reg. 13590; amended in R82-1 (Docket A) at 10 Ill. Reg. 12624, effective July 7, 1986; amended in R85-21(A) at 11 Ill. Reg. 11747, effective June 29, 1987; amended in R86-34 at 11 Ill. Reg. 12267, effective July 10, 1987; amended in R86-39 at 11 Ill. Reg. 20804, effective December 14, 1987; amended in R82-14 and R86-37 at 12 Ill. Reg. 787, effective December 24, 1987; amended in R86-18 at 12 Ill. Reg. 7284, effective April 8, 1988; amended in R86-10 at 12 Ill. Reg. 7621, effective April 11, 1988; amended in R88-23 at 13 Ill. Reg. 10862, effective June 27, 1989; amended in R89-8 at 13 Ill. Reg. 17457, effective January 1, 1990; amended in R89-16(A) at 14 Ill. Reg. 9141, effective May 23, 1990; amended in R88-30(B) at 15 Ill. Reg. 5223, effective March 28, 1991; amended in R88-14 at 15 Ill. Reg. 7901, effective May 14, 1991; amended in R91-10 at 15 Ill. Reg. 15564, effective October 11, 1991; amended in R91-6 at 15 Ill. Reg. 15673, effective October 14, 1991; amended in R91-22 at 16 Ill. Reg. 7656, effective May 1, 1992; amended in R91-24 at 16 Ill. Reg. 13526, effective August 24, 1992; amended in R93-9 at 17 Ill. Reg. 16504, effective September 27, 1993; amended in R93-11 at 17 Ill. Reg. 21471, effective December 7, 1993; amended in R93-14 at 18 Ill. Reg. 1253, effective January 18, 1994; amended in R94-12 at 18 Ill. Reg. 14962, effective September 21, 1994; amended in R94-14 at 18 Ill. Reg. 15744, effective October 17, 1994; amended in R94-15 at 18 Ill. Reg. 16379, effective October 25, 1994; amended in R94-16 at 18 Ill. Reg. 16929, effective November 15, 1994; amended in R94-21, R94-31 and R94-32 at 19 Ill. Reg. 6823, effective May 9, 1995; amended in R94-33 at 19 Ill. Reg. 7344, effective May 22, 1995; amended in R95-2 at 19 Ill. Reg. 11066, effective July 12, 1995; amended in R95-16 at 19 Ill. Reg. 15176, effective October 19, 1995; amended in R96-5 at 20 Ill. Reg. 7590, effective May 22, 1996; amended in R96-16 at 21 Ill. Reg. 2641, effective February 7, 1997; amended in R97-17 at 21 Ill. Reg. 6489, effective May 16, 1997; amended in R97-24 at 21 Ill. Reg. 7695, effective June 9, 1997; amended in R96-17 at 21 Ill. Reg. 7856, effective June 17, 1997; amended in R97-31 at 22 Ill. Reg. 3497, effective February 2, 1998; amended in R98-17 at 22 Ill. Reg. 11405, effective June 22, 1998; amended in R01-9 at \_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_; amended in R01-11 at \_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_, and amended at R01-\_\_\_ at \_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

BOARD NOTE: This Part implements the Illinois Environmental Protection Act as of July 1, 1994.

## SUBPART B: DEFINITIONS

Section 211.4067      NO<sub>x</sub> Trading Program

For the purposes of 35 Ill. Adm. Code 217, Subparts U and W, the NO<sub>x</sub> Trading Program shall meet the requirements of 35 Ill. Adm. Code 217, Subparts U and W, and those provisions of the federal NO<sub>x</sub> Trading Program, 40 CFR 96, incorporated by reference therein.

(Source: Added at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 211.6130 Source

Except as provided below, "Source" means any stationary source (or any group of stationary sources that are located on one or more contiguous or adjacent properties, and are under common control of the same person or persons under common control) belonging to a single major industrial grouping. For the purposes of defining "source," a stationary source or group of stationary sources shall be considered part of a single industrial grouping if all of the pollutant emitting activities at such source or group of sources on contiguous or adjacent property belong to the same Major Group (i.e., all have the same two-digit code) as described in the Standard Industrial Classification Manual, 1987 (incorporated by reference in 35 Ill. Adm. Code 218.112 and 219.112).

For the purposes of 35 Ill. Adm. Code 217, Subparts T, U, V, W and X, "source" means any stationary source (or any group of stationary sources) located on one or more contiguous or adjacent properties that are under common control of the same person (or persons under common control) and that belong to a single major industrial grouping. For the purposes of defining "source," a stationary source or group of stationary sources shall be considered part of a single major industrial grouping if all of the pollutant emitting activities at such source or group of sources located on contiguous or adjacent properties and under common control belong to the same Major Group (i.e., all have the same two-digit code) as described in the Standard Industrial Classification Manual, 1987 (incorporated by reference in 35 Ill. Adm. Code 218.112 and 219.112), or such pollutant emitting activities at a stationary source (or group of stationary sources) located on contiguous or adjacent properties and under common control constitute a support facility. The determination whether any group of stationary sources are located on adjacent or contiguous properties, are under common control, or whether the pollutant emitting activities at such group of stationary sources constitute a support facility shall be made on a case by case basis.

(Source: Added at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

TITLE 35: ENVIRONMENTAL PROTECTION  
 SUBTITLE B: AIR POLLUTION  
 CHAPTER I: POLLUTION CONTROL BOARD

SUBCHAPTER c: EMISSION STANDARDS AND LIMITATIONS FOR  
 STATIONARY SOURCES

## PART 217

## NITROGEN OXIDES EMISSIONS

## SUBPART A: GENERAL PROVISIONS

## Section

## 217.100 Scope And Organization

- 217.101 Measurement Methods
- 217.102 Abbreviations And Units
- 217.103 Definitions
- 217.104 Incorporations By Reference

SUBPART B: NEW FUEL COMBUSTION EMISSION SOURCES

Section

217.121 New Emission Sources

SUBPART C: EXISTING FUEL COMBUSTION EMISSION SOURCES

Section

217.141 Existing Emission Sources in Major Metropolitan Areas

SUBPART K: PROCESS EMISSION SOURCES

Section

217.301 Industrial Processes

SUBPART O: CHEMICAL MANUFACTURE

Section

217.381 Nitric Acid Manufacturing Processes

SUBPART U: NO<sub>x</sub> CONTROL AND TRADING PROGRAM FOR  
SPECIFIED NO<sub>x</sub> GENERATING UNITS

Section

<u>217.650</u>	<u>Purpose</u>
<u>217.652</u>	<u>Severability</u>
<u>217.654</u>	<u>Applicability</u>
<u>217.656</u>	<u>Compliance Requirements</u>
<u>217.658</u>	<u>Permitting Requirements</u>
<u>217.660</u>	<u>Subpart U NO<sub>x</sub> Trading Budget</u>
<u>217.662</u>	<u>Methodology for Obtaining NO<sub>x</sub> Allocations</u>
<u>217.664</u>	<u>Methodology for Determining Required NO<sub>x</sub> Allocations</u>
<u>217.666</u>	<u>NO<sub>x</sub> Allocations for Subpart U Units</u>
<u>217.668</u>	<u>New Source Set-Aside for "New" Budget Units</u>
<u>217.670</u>	<u>Early Reduction Credits for Budget Units</u>
<u>217.672</u>	<u>Reserved</u>
<u>217.673</u>	<u>Reserved</u>
<u>217.674</u>	<u>Opt-in Units</u>
<u>217.676</u>	<u>Opt-in Process</u>
<u>217.678</u>	<u>Opt-in Budget Units: Withdrawal from the NO<sub>x</sub> Trading Program</u>
<u>217.680</u>	<u>Opt-in Budget Units: Change in Regulatory Status</u>
<u>217.682</u>	<u>Allowance Allocations to Opt-in Budget Units</u>

## SUBPART V: ELECTRIC POWER GENERATION

## Section

217.521 Lake of Egypt Power Plant

SUBPART X: VOLUNTARY NO<sub>x</sub> EMISSIONS REDUCTION PROGRAMSection217.800 Purpose217.805 Emission Unit Eligibility217.810 Participation Requirements217.815 Methods to Obtain NO<sub>x</sub> Emission Reductions217.820 Baseline Emissions Determination217.825 Calculation of Creditable NO<sub>x</sub> Emission Reductions217.830 Limitations on NO<sub>x</sub> Emission Reductions217.835 NO<sub>x</sub> Emission Reductions Proposal217.840 Agency Action217.845 Emissions Determination Methods217.850 Emissions Monitoring217.855 Reporting217.860 Recordkeeping217.865 Enforcement

Appendix A Rule into Section Table

Appendix B Section into Rule Table

Appendix C Compliance Dates

Appendix E Non-Electrical Generating Units

AUTHORITY: Implementing Sections 9.9 and 10 and authorized by Section 27 of the Environmental Protection Act (Ill. Rev. Stat. 1981, ch. 111 ½, pars. 1010 and 1027) [415 ILCS 5/9.9, 10 and 27.]

SOURCE: Adopted as Chapter 2: Air Pollution, Rule 207: Nitrogen Oxides Emissions, R71-23, 4 PCB 191, April 13, 1972, filed and effective April 14, 1972; amended at 2 Ill. Reg. 17, p. 101, effective April 13, 1978; codified at 7 Ill. Reg. 13609; amended in R01-9, at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_, amended at R 01-11, at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_, and amended at R 01-\_\_\_\_, at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

SUBPART U: NO<sub>x</sub> CONTROL AND TRADING PROGRAM FOR  
SPECIFIED NO<sub>x</sub> GENERATING UNITS

Section 217.650 \_\_\_\_\_ Purpose

The purpose of this Subpart is to cap the emissions of nitrogen oxides (NO<sub>x</sub>) during the ozone control period from units subject to the provisions of this Subpart ("budget units") by determining source allocations and by implementing the federal NO<sub>x</sub> Trading Program, 40 CFR 96, consistent with the provisions of this Subpart.

(Source: Added at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 217.652 Severability

If any Section, subsection or clause of this Subpart is found invalid, such finding shall not affect the validity of this Subpart as a whole or any Section, sentence or clause not found invalid.

(Source: Added at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 217.654 Applicability

a) This Subpart applies to any fossil fuel-fired stationary boiler, combustion turbine, or combined cycle system, with a maximum design heat input greater than 250 mmbtu/hr and that is:

- 1) A unit listed on Appendix E of this Subpart, or
- 2) A unit not listed on Appendix E of this Subpart that:
  - A) At no time serves a generator producing electricity for sale; or
  - B) At any time serves a generator producing electricity for sale, if such generator has a nameplate capacity of 25 MWe or less and has the potential to use no more than 50% of the potential electrical output capacity of the unit. Fifty percent (50%) of a unit's potential electrical output capacity shall be determined by multiplying the unit's maximum design heat input by 0.0488 MWe/mmbtu. If the size of the generator is smaller than this calculated number, the unit is subject to the provisions of this Subpart, but if the size of the generator is greater than this calculated number, the unit is subject to the provisions of Subpart W of this Part; or
  - C) Is part of any source, as that term is defined in 35 Ill. Adm. Code Section 211.6135, listed on Appendix E of this Part.

b) Those units that meet the above criteria and are subject to the NO<sub>x</sub> Trading Program emissions limitations contained in this Subpart are budget units.

c) Low-emitter status: Notwithstanding subsection (a) of this Section, the owner or operator of a budget unit subject to the requirements of subsection (a) of this Section may elect low-emitter status by obtaining a permit with federally enforceable conditions that meet the requirements of subsection (c)(1) of this Section. Starting with the effective date of such permit, the unit shall be subject only to the requirements of this subsection.

- 1) For each control period the owner or operator elects low emitter status, the federally enforceable permit conditions must:
  - A) Restrict the unit to burning only natural gas, fuel oil, or natural gas and fuel oil;
  - B) Limit the unit's potential NO<sub>x</sub> mass emissions for the control period to 25 tons or less;

- C) Restrict the unit's operating hours to the number calculated by dividing 25 tons of potential NO<sub>x</sub> mass emissions by the unit's maximum potential hourly NO<sub>x</sub> mass emissions;
- D) Require that the unit's potential NO<sub>x</sub> mass emissions shall be calculated by using the monitoring provisions of 40 CFR 75, or if the unit does not rely on these monitoring provisions, by using the applicable default rate as follows:
- i) Select the applicable default NO<sub>x</sub> emission rate:  
0.7 lb/mmbtu for combustion turbines burning natural gas exclusively during the control period;  
1.2 lbs/mmbtu for combustion turbines burning any fuel oil during the control period;  
1.5 lbs/mmbtu for boilers burning natural gas exclusively during the control period; or  
2 lbs/mmbtu for boilers burning any fuel oil during the control period.
- ii) Multiply the default NO<sub>x</sub> emission rate under subsection (c)(1)(D)(i) of this Section by the unit's maximum rated hourly heat input which is the higher of the manufacturer's maximum rated hourly heat input or the highest observed hourly heat input. The owner or operator of the unit may request in the permit application required by this subsection that the Agency use a lower value for the unit's maximum rated hourly heat input. The Agency may approve such lower value if the owner or operator demonstrates that the maximum hourly heat input specified by the manufacturer or the highest observed hourly heat input, or both, are not representative. The owner or operator must demonstrate that such lower value is representative of the unit's current capabilities because modifications have been made to the unit that permanently limit the unit's capacity.
- E) Require that for five years at the source that includes the unit, records demonstrating that the operating hours restriction, the fuel use restriction and the other requirements of the permit related to these restrictions were met; and
- F) Require that the owner or operator of the unit report during each control period to the Agency the unit's hours of operation (treating any partial hour of operation as a whole hour of operation), heat input and fuel use by type. This report shall be submitted by November 1 of each year the unit elects low-emitter status.

- 2) The Agency will notify the USEPA in writing of each unit electing low-emitter status pursuant to the requirements of subsection (c)(1) of this Section and when any of the following occurs:
  - A) The permit with federally enforceable conditions that includes the restrictions in subsection (c)(1) of this Section is issued by the Agency;
  - B) Such permit is revised to remove any such restriction;
  - C) Such permit includes any such restriction that is no longer applicable; or
  - D) The unit does not comply with any such restriction.
- 3) The unit shall become subject to the requirements of this Subpart if, for any control period under subsection (c) of this Section, the fuel use restriction or the operating hours restriction under subsection (c)(1) of this Section is removed from the unit's permit or otherwise is no longer applicable, or the unit does not comply with the fuel use restriction or the operating hours restriction under subsection (c)(1) of this Section. Such unit shall be treated as commencing operation on September 30 of the control period for which the fuel use restriction or the operating hours restriction is no longer applicable or during which the unit does not comply with the fuel use restriction or the operating hours restriction.
- 4) The owner or operator of a unit to which the Agency has ever allocated allowances under Appendix E of this Part may elect low-emitter status. In that case, the Agency will reduce the Subpart U NO<sub>x</sub> budget by the number of allowances corresponding to the amount of NO<sub>x</sub> emissions the unit is permitted to emit during the control period, pursuant to a federally enforceable condition in the unit's permit. The owner or operator of a unit electing low-emitter status may demonstrate that it holds sufficient allowances to cover the unit's NO<sub>x</sub> emissions by offsetting the emissions from such unit, not to exceed its permitted emission limit as included in its federally enforceable permit, with allowances issued for voluntary NO<sub>x</sub> reductions meeting the requirements of Subpart X of this Part. The Agency will not reduce the Subpart U NO<sub>x</sub> budget by the allowances issued for NO<sub>x</sub> reductions obtained in accordance with Subpart X of this Part.
- d) The owner or operator of any budget unit not listed in Appendix E of this Part but is subject to this Subpart shall not receive an allocation of NO<sub>x</sub> allowances from the Subpart U NO<sub>x</sub> Trading Budget, except for any allowance from the new source set aside in accordance with Section 217.668 of this Subpart, or receive any allocation from the Subpart W NO<sub>x</sub> Trading Budget, but must acquire NO<sub>x</sub> allowances in an

amount not less than the NO<sub>x</sub> emissions from such budget unit during the control period (rounded to the nearest whole ton) in accordance with the federal NO<sub>x</sub> Trading Program, Subpart X of this Part or pursuant to a permanent transfer of NO<sub>x</sub> allocations pursuant to Section 217.662(b) of this Subpart.

- e) Notwithstanding any other provisions of this Subpart, a source and units at the source subject to the provisions of subsection (a) of this Section will become subject to this Subpart on THE FIRST DAY OF THE CONTROL SEASON SUBSEQUENT TO THE CALENDAR YEAR IN WHICH ALL OF THE OTHER STATES SUBJECT TO THE PROVISIONS OF THE NO<sub>x</sub> SIP CALL (63 Fed. Reg. 57355 (October 27, 1998)) THAT ARE LOCATED IN USEPA REGION V OR ARE THAT CONTIGUOUS TO ILLINOIS HAVE ADOPTED REGULATIONS TO IMPLEMENT NO<sub>x</sub> TRADING PROGRAMS AND OTHER REQUIRED REDUCTIONS OF NO<sub>x</sub> EMISSIONS PURSUANT TO THE NO<sub>x</sub> SIP CALL, AND SUCH REGULATIONS HAVE RECEIVED FINAL APPROVAL BY USEPA AS PART OF THE RESPECTIVE STATES' SIPS FOR OZONE, OR A FINAL FIP FOR OZONE PROMULGATED BY USEPA IS EFFECTIVE.

(Source: Added at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 217.656      Compliance Requirements

All budget units subject to the requirements of this Subpart must comply with the following:

- a) The requirements of this Subpart and 40 CFR 96, excluding 40 CFR 96.4(b), 96.55(c), and excluding 40 CFR 96, subparts C, E, and I, as incorporated by reference in Section 217.104 of this Part. To the extent that this Subpart contains provisions which are inconsistent with any provisions of 40 CFR 96, the owner or operator of budget units subject to this Subpart shall comply with the provisions of this Subpart in lieu of those provisions which were incorporated by reference.
- b) Permit requirements:
- 1) The owner or operator of each source with one or more budget units at the source subject to this Subpart must submit a complete permit application for a budget permit in accordance with the provisions of Section 217.658(a)(4), (a)(5) or (a)(6), as applicable, to be issued by the Agency with federally enforceable conditions covering the NO<sub>x</sub> Trading Program ("budget permit"), and that complies with the requirements of Section 217.658 of this Subpart.
  - 2) The owner or operator of one or more budget units subject to this Subpart must operate each such budget unit in compliance with such budget permit or complete budget permit application, as applicable.
  - 3) The owner or operator of one or more budget units subject to this Subpart, at the time of filing an application for a permit under this Section, must

either obtain a permit incorporating a source-wide overdraft account (as such term is defined in 40 CFR 96.2), or a permit incorporating unit specific compliance accounts for each budget unit at the source subject to this Subpart. Such election shall be at the sole discretion of the owner or operator of the source and the Agency shall incorporate such election into a permit issued to the source pursuant to this Subpart.

c) Monitoring requirements:

- 1) For budget units subject to the requirements of this Subpart, and which commence operation on and after January 1, 2000, the owner or operator of each such budget unit at the source must comply with the monitoring requirements of 40 CFR 96, subpart H. The account representative of each such budget unit at the source shall comply with those sections of the monitoring requirements of 40 CFR 96, subpart H, applicable to an account representative.
- 2) The compliance of each budget unit subject to the requirements of subsection (c)(1) or subsection (c)(3)(A) of this Section with the control period NO<sub>x</sub> emissions limitation under subsection (d) of this Section shall be determined by the emissions measurements recorded and reported in accordance with 40 CFR 96, subpart H.
- 3) For budget units which commenced operation prior to January 1, 2000:
  - A) The owner or operator of each such budget unit at the source must comply with the requirements of 40 CFR 96, subpart H; or
  - B) If the monitoring requirements of 40 CFR 96, subpart H, are demonstrated by the source to be technically infeasible as applied to a budget unit subject to the requirements of this Subpart, the owner or operator of such budget unit may monitor by an alternative monitoring procedure for the budget unit approved by the Agency and the Administrator of USEPA pursuant to the provisions of 40 CFR 75, subpart E. Such alternative monitoring procedures must be contained as federally enforceable conditions in the unit's permit.
  - C) The compliance of each budget unit subject to the requirements of subsection (c)(3)(B) of this Section shall be determined by the emissions measurements recorded and reported in accordance with the federally enforceable conditions in the budget unit's permit addressing monitoring as required by subsection (c)(3)(B) of this Section.

d) NO<sub>x</sub> requirements:

- 1) As of November 30 of each year, the allowance transfer deadline, the account representative of each source subject to the requirements of this Subpart must hold allowances available for compliance deductions under 40 CFR 96.54 for each budget unit at the source subject to this Subpart in the budget unit's compliance accounts, or the source's overdraft account. The number of allowances held in these accounts shall not be less than the total NO<sub>x</sub> emissions for the control period (rounded to the nearest whole ton), as determined in accordance with Section 217.656(c) of this Subpart, plus any number of allowances necessary to account for actual utilization (e.g., for testing, start-up, malfunction, and shut down) under 40 CFR 96.42(e) for all budget units at the source subject to this Subpart. Compliance with this provision shall be demonstrated if, as of the allowance transfer deadline, the sum of the allowances available for compliance deductions for all budget units at the source subject to this Subpart is equal to or greater than the total NO<sub>x</sub> emissions (rounded to the nearest whole ton) from all budget units at the source subject to this Subpart.
- 2) Allowances shall be held in, deducted from, or transferred among allowance accounts in accordance with this Subpart and 40 CFR 96, subparts F and G.
- 3) Each ton of NO<sub>x</sub> emitted by a source with one or more budget units subject to this Subpart in any control period in excess of the NO<sub>x</sub> allowances held by the owner or operator for each budget unit at the source subject to this Subpart for each control period shall constitute a separate violation of this Subpart and the Act.
- 4) In order to comply with the requirements of subsection (d)(1) of this Section, an allowance may not be utilized for a control period in a year prior to the year for which the allowance was allocated.
- 5) An allowance allocated by the Agency or USEPA under the NO<sub>x</sub> Trading Program is a limited authorization to emit one ton of NO<sub>x</sub>. No provision of the NO<sub>x</sub> Trading Program, any permit issued or permit application submitted pursuant to this Subpart, or an exemption under 40 CFR 96.5 and no provision of law shall be construed to limit the authority of the United States or the State to terminate or limit this authorization.
- 6) An allowance allocated by the Agency or USEPA under the NO<sub>x</sub> Trading Program or pursuant to this Subpart does not constitute a property right.
- 7) Upon recordation by USEPA under 40 CFR 96, subpart F or G, every allocation, transfer, or deduction of an allowance to or from a budget unit's compliance account or to or from the source's general or overdraft account where the budget unit is located is deemed to amend automatically and

become a part of any budget permit of the budget unit. This automatic amendment of the budget permit shall occur by operation of law and will not require any further review.

e) Recordkeeping and reporting requirements:

1) Unless otherwise provided, the owner or operator of a source subject to the requirements of this Subpart must keep on site at the source each of the documents listed in subsections (e)(1)(A) through (e)(1)(D) of this Section for a period of five years from the date the document is created. This period may be extended for cause at any time prior to the end of five years in writing by the Agency or USEPA.

A) The account certificate of representation for the account representative for the source and each budget unit at the source subject to the requirements of this Subpart and all documents that demonstrate the truth of the statements in the account certificate of representation, in accordance with 40 CFR 96.13, provided that the certificate and such supporting documents must be retained on site at the source beyond such five year period until such documents are superseded because of the submission of a new account certificate of representation changing the account representative.

B) All emissions monitoring information, in accordance with Section 217.656(c), provided that to the extent that 40 CFR 96, subpart H, provides for a three-year period for recordkeeping, the three-year period shall apply.

C) Copies of all reports, compliance certifications, and other submissions and all records made or required under this Subpart or the NO<sub>x</sub> Trading Program or documents necessary to demonstrate compliance with the requirements of this Subpart or the NO<sub>x</sub> Trading Program.

D) Copies of all documents used to complete a budget permit application and any other submission under this Subpart or under the NO<sub>x</sub> Trading Program.

2) The account representative of a source and each budget unit at the source subject to the requirements of this Subpart must submit to the Agency and USEPA the reports and compliance certifications required under this Subpart and the NO<sub>x</sub> Trading Program, including those under 40 CFR 96, subparts D and H.

f) Liability:

- 1) No revision of a budget permit shall excuse any violation of the requirements of the NO<sub>x</sub> Trading Program or this Subpart that occurs prior to the date that the revision under such budget permit takes effect.
- 2) Each budget source and each budget unit at the source shall meet the requirements of the NO<sub>x</sub> Trading Program.
- 3) Any provision of this Subpart or the NO<sub>x</sub> Trading Program that applies to a source subject to the requirements of this Subpart (including a provision applicable to the account representative of the source) shall also apply to the owner and operator of such source and to the owner and operator of the budget units subject to the requirements of this Subpart at the source.
- 4) Any provision of this Subpart or the NO<sub>x</sub> Trading Program that applies to a budget unit subject to the requirements of this Subpart (including a provision applicable to the account representative of such budget unit) shall also apply to the owner and operator of such budget unit. Except with regard to the requirements applicable to budget units with a common stack under 40 CFR 96, subpart H, the owner and operator and the account representative of one budget unit shall not be liable for any violation by any other budget unit of which they are not an owner or operator or the account representative and that is located at a source of which they are not an owner or operator or the account representative.
- 5) Excess emissions requirements. The account representative of a source that has excess emissions in any control period shall surrender the allowances as required for deduction under 40 CFR 96.54(d)(1).
- 6) The owner or operator of a budget EGU that has excess emissions in any control period shall pay any fine, penalty, or assessment or comply with any other remedy imposed under 40 CFR 96.54(d)(3) and the Act.
- g) Effect on other authorities. No provision of this Subpart, the NO<sub>x</sub> Trading Program, a budget permit application, a budget permit, or a retired budget unit exemption under 40 CFR 96.5 shall be construed as exempting or excluding the owner or operator and, to the extent applicable, the account representative of a source or budget unit from compliance with any other regulations promulgated under the CAA, the Act, an approved State implementation plan, or a federally enforceable permit.

(Source: Added at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 217. 658      Permitting Requirements

- a) Budget permit requirements:

- 1) The owner or operator of each source with one or more budget units subject to this Subpart is required to timely submit, in accordance with subsection (a)(4), (a)(5), or (a)(6) of this Section, as applicable, a complete permit application addressing all requirements of this Subpart applicable to such budget units.
  - 2) Each budget permit (including a draft or proposed budget permit, if applicable) shall contain federally enforceable conditions addressing all applicable requirements of the NO<sub>x</sub> Trading Program and requirements of this Subpart and shall be a complete and segregable portion of the source's entire permit issued pursuant to subsection (a)(1) of this Section.
  - 3) No budget permit will be issued, and no NO<sub>x</sub> allowance account will be established for any budget unit subject to this Subpart, until the Agency and USEPA have received a complete account certificate of representation under 40 CFR 96, subpart B, for an account representative of the source and each budget unit at the source subject to this Subpart.
  - 4) For any budget unit subject to this Subpart that commenced operation before November 1, 2003, and for which a CAAPP permit is not required pursuant to Section 39.5 of the Act, the owner or operator of such budget unit must submit a budget permit application meeting the requirements of this Section on or before November 1, 2003.
  - 5) For any budget unit subject to this Subpart that commenced operation before August 1, 2003, and for which a CAAPP permit is required pursuant to Section 39.5 of the Act, the owner or operator of such budget unit must submit a budget permit application meeting the requirements of this Section on or before August 1, 2003.
  - 6) For any budget unit subject to this Subpart that is subject to Section 39.5 of the Act and that commences operation on or after August 1, 2003, and for any budget unit subject to this Subpart and not subject to Section 39.5 of the Act that commences operation on or after November 1, 2003, the owner or operator of such budget units must submit applications for construction and operating permits pursuant to the requirements of Sections 39 and 39.5 of the Act and 35 Ill. Adm. Code 201 and such applications must specify that they are applying for budget permits, and must address the budget permit application requirements of this Section.
- b) Budget permit applications:
- 1) Duty to apply. The owner or operator of any source with one or more budget units subject to this Subpart must submit to the Agency one or more complete budget permit applications under subsection (c) of this Section for such budget units by the applicable deadline in subsection (a)(4), (a)(5), or (a)(6) of this Section. The owner or operator of any source with such budget units must reapply for a budget permit as required by this

Subpart, and 35 Ill. Adm. Code 201 and Sections 39 and 39.5 of the Act.

- 2) Information requirements for budget permit applications. A complete budget permit application must include the following elements concerning the budget units for which the application is submitted:
- A) Identification of the source, including plant name. The ORIS (Office of Regulatory Information Systems) or facility code assigned to the source by the Energy Information Administration must also be included, if applicable;
- B) Identification of each fossil fuel-fired combustion turbine, stationary boiler or combined cycle system budget unit at the source. An explanation whether each budget unit is subject to the requirements of Section 217.654 of this Subpart; and
- C) The compliance requirements of Section 217.656 of this Subpart.
- 3) An application for a budget permit shall be treated as a modification of the source's existing federally enforceable permit, if such permit has been issued for the source, and shall be subject to the same procedural requirements. When the Agency issues a budget permit, it shall be incorporated into and become a segregable part of the source's existing federally enforceable permit.

(Source: Added at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 217.660 Subpart U NO<sub>x</sub> Trading Budget

- a) The initial NO<sub>x</sub> allowances available for allocation for each control period (the Subpart U NO<sub>x</sub> Trading Budget) for budget units subject to the provisions of this Subpart shall be 4,882 tons per control period, subject to adjustment in accordance with subsections (b), (c) and (d) of this Section, allowances issued pursuant to reductions obtained in accordance with Subpart X of this Part, and subject to the new source set aside for budget units subject to this Subpart, as set forth in Sections 217.662 and 217.664 of this Subpart. The Subpart U NO<sub>x</sub> Trading Budget shall be initially allocated as set forth in Appendix E of this Part.
- b) The Agency may adjust the Subpart U NO<sub>x</sub> Trading Budget available for allocations in subsection (a) of this Section by removing allowances for budget units subject to this Subpart opting to become exempt pursuant to the requirements for low-emitters in Section 217.654(c) of this Subpart.
- c) The Agency shall adjust the Subpart U NO<sub>x</sub> Trading Budget available for allocations in subsection (a) of this Section by adding any allowances issued for voluntary reductions of NO<sub>x</sub> emissions in accordance with the provisions of Subpart X of this Part.
- d) The Agency shall adjust the Subpart U NO<sub>x</sub> Trading Budget available for allocations in subsection (a) of this Section to remove allowances from units opting

to become exempt pursuant to the requirements for low-emitters in Section 217.654(c) of this Subpart.

- e) Except as set forth in subsection (f) of this Section, if USEPA adjusts the base Subpart U NO<sub>x</sub> Trading Budget of 4,882 allowances, the Agency will adjust the Subpart U NO<sub>x</sub> Trading Budget pro-rata.
- f) If USEPA adjusts the Subpart U NO<sub>x</sub> Trading Budget as to any individual budget unit, the Subpart U NO<sub>x</sub> Trading Budget shall not be adjusted pro-rata, and only the allowance allocation for that budget unit will be adjusted.

(Source: Added at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 217.662 Methodology for Obtaining NO<sub>x</sub> Allocations

- a) Appendix E of this Part identifies the sources with existing budget units subject to this subpart and the number of NO<sub>x</sub> allowance allocations that each such budget unit is eligible to receive each control period, subject to adjustment in accordance with Section 217.660 of this subpart and for transfers made in accordance with subsection (b) of this Section. Each named budget unit's allocation will be adjusted proportionally based on the adjusted Subpart U NO<sub>x</sub> trading budget as provided by Section 217.660(b) (d) and (e) of this Subpart.
- b) The owner or operator of budget units subject to this Subpart may permanently transfer all or part of their allocation of allowances pursuant to column 4 of Appendix E of this part, subject to adjustment in accordance with this Subpart, to another budget unit subject to this Subpart, or to a budget unit subject to Subpart W of this Part. Such transfer will be effective by submitting a written request to the Agency that is signed by the account representative for the transferring budget unit and containing the account number for the recipient budget unit. The owner or operator of budget units subject to this Subpart may not permanently transfer all or part of the new source set aside indicated in column 5 of Appendix E of this Part.
- c) Subject to adjustment in accordance with this Subpart, revocation or revision of the federal NO<sub>x</sub> Trading Program or this Subpart, allocations pursuant to Appendix E of this Part exist for the life of the program, including all or a portion of any allocation transferred to another budget unit pursuant to the provisions of this Subpart.

(Source: Added at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 217.664 Methodology for Determining Required NO<sub>x</sub> Allocations

- a) The methodology for calculating the allowances available to be allocated to new budget units subject to this Subpart from the new source set aside is based on the more stringent emission rate of 0.15 lb/mmbtu or the permitted NO<sub>x</sub> emission rate, but not less than 0.055 lb/mmbtu.
- b) The general equation for determining allowances is:

$$\underline{A} \quad = \quad \frac{\underline{HI} \times \underline{ER}}{\underline{2000}}$$

Where HI = heat input (in mmbtu/control period) as determined in accordance with subsection (c) of this Section.

Where ER = The NO<sub>x</sub> emission rate in lbs/mmbtu as determined in accordance with subsection (a) of this Section.

Where A = allowances of NO<sub>x</sub>/control period.

- c) The projected heat input shall be determined as set forth below, divided by 2000 lbs/ton:
- 1) For “new” budget units subject to this Subpart that have heat input from at least three control periods prior to the allocation year, the average of the budget unit's two highest seasonal heat inputs from the control periods one to three years prior to the allocation year;
  - 2) For “new” budget units subject to this Subpart that have heat input from only two control periods prior to the allocation year, the average of the budget unit's seasonal heat inputs from the control periods one and two years prior to the allocation year;
  - 3) For “new” budget units subject to this Subpart that have seasonal heat input from only the control period prior to the allocation year, the heat input from that control period; or
  - 4) For “new” budget units subject to this Subpart that have not operated for at least 77 days of the control period prior to the allocation year, the budget unit's maximum design heat input for the control period as designated in the construction permit.

(Source: Added at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 217.666 NO<sub>x</sub> Allocations for Subpart U Budget Units

For each control period, the Agency will allocate the total number of NO<sub>x</sub> allowances in the Subpart U NO<sub>x</sub> Trading Budget apportioned to budget units under Section 217.660 of this Subpart, subject to adjustment as provided in this Subpart. These allocations will be issued as provided in subsections (a) through (b) of this Section. Specifically,

- a) The Agency will allocate to each budget unit that is listed in Appendix E of this Part the number of allowances listed in Column 5 of Appendix E of this Part for that budget unit for each three year period of the program. The Agency will report these allocations to USEPA by March 1 of 2004, and triennially thereafter.
- b) The Agency will allocate allowances from the new source set-aside to "new" budget units as set forth in Section 217.668 of this Subpart.
- c) The Agency will report allocations from the new source set-aside to USEPA by April 1 of each year for the following year.
- d) To the extent that allowances remain in the new source set-aside after any allocation pursuant to subsection (b) of this Section, the Agency shall allocate any such remaining allowances pro-rata to the owner or operator of the budget units listed on Appendix E of this Part to the extent a whole allowance may be allocated to any such owner or operator. The Agency will make such allocation by April 15 of each year. If there are insufficient allowances to allocate a whole allowance to any such owner or operator of a budget unit listed on Appendix E of this Part, such allowances shall be retained by the Agency in the new source set-aside. Any such allowances retained in the new source set-aside shall be accumulated in the new source set-aside and may either:
  - 1) Be available for allocation to new budget units for future control periods, subject to the provisions of Section 217.668 of this Subpart; or
  - 2) If, after any annual allocation to new budget units, there are sufficient allowances accumulated in the new source set-aside to allocate one or more whole allowances to the owner or operator of existing budget units listed on Appendix E of this Part on a pro-rata basis, such accumulated whole allowances shall be allocated pro-rata to such owner or operators.

(Source: Added at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 217.668 New Source Set-Asides for "New" Budget Units

- a) For the 2004, 2005 and 2006 control periods, a "new" budget unit is one that commenced commercial operation on or after January 1, 2000. For the 2007 and later control periods, a "new" budget unit is one that commenced commercial operation no more than three (3) control periods prior to the year the allocation is requested pursuant to this Section. Those units that commenced commercial operation on or after January 1, 2000, but before May 31, 2004, become "existing" budget units on October 1, 2004. Those units that commenced commercial

operation on or after May 31, 2004, become "existing" budget units the end of the third control period after they commenced commercial operation.

- b) "New" budget units must have an allowance for every ton of NO<sub>x</sub> emitted during the control period as provided in Section 217.656(d) of this Subpart.
- c) The Agency will establish a new source set-aside for each control period from which "new" budget units may purchase NO<sub>x</sub> allowances. Each new source set-aside will be allocated allowances equal to percent of each source's initial total Subpart U NO<sub>x</sub> Trading Budget allocation as reflected in Column 5 of Appendix E of this Part, which is 146 allowances, for each control period. The allocation for the new source set aside from each source shall be based on three percent of the source's initial allocation, without regard to subsequent adjustment to any such source's current allocation, including permanent transfer of allowances to another source or revision of the Subpart U NO<sub>x</sub> Trading Budget by USEPA.
- d) A "new" budget unit may request to purchase from the Agency a number of allowances that is not more than the number of allowances for which it is eligible, as determined in Section 217.664 of this Subpart, and subject to the provisions of this Section.
- e) The account representative of a "new" budget unit under subsection (a) of this Section may purchase allowances from the new source set-aside by submitting to the Agency a request, in writing or in a format specified by the Agency, to be allocated allowances for the current control period from the new source set-aside. The allocation request for each applicable control period must be submitted after the date on which the Agency issues a construction permit to the "new" budget unit and before March 1 of the control period for which the allocation is requested.
- f) The Agency shall apportion allowances from the new source set-aside to "new" budget units requesting to purchase NO<sub>x</sub> allowances in accordance with subsection (e) of this Section, and subject to the provisions of this Section.
- g) In an allocation request under subsection (e) of this Section, the account representative may request to purchase allowances for a control period in a number that does not exceed the projected heat input in mmbtu during the applicable control period multiplied by the more stringent of 0.15 lb/mmbtu or the permitted emission rate, but no more stringent than 0.055 lb/mmbtu.
- h) The Agency will notify the account representative by March 1 of the applicable year of the number of allowances that are eligible for purchase for the "new" budget unit pursuant to the requirements of this Section. If the Agency does not receive payment by March 15 of the applicable year, the account representative will forfeit his/her eligibility to purchase the allowances offered. The Agency will make available for purchase those forfeited allowances on a pro-rata basis to "new" budget units requesting allocations pursuant to Section, up to the number of

allowances requested by each account representative. Such additional allocations are subject to the purchase requirements of subsection (j) of this Section.

- i) The price of allowances from the new source set-aside shall be:
- 1) The average price at which NO<sub>x</sub> allowances are traded in the interstate NO<sub>x</sub> Trading Program for the preceding control period; and
  - 2) For 2004 only, the price shall be the average price at which NO<sub>x</sub> allowances were traded in 2003 in the Ozone Transport Region.
  - 3) The fees collected by the Agency from the sale of allowances will be distributed pro-rata to budget units receiving allowances pursuant to Appendix E of this Part on the basis of allocated allowances, subject to Agency administrative costs assessed pursuant to Section 9.9 of the Act.

(Source: Added at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 217.670 Early Reduction Credits for Budget Units

If a budget unit reduces its NO<sub>x</sub> emission rate as required by the applicable provisions of subsection (c) of this Section in the 2001 or 2002, control period, or if approved by USEPA, the 2003 control period, for use in 2004 control period, or later control periods authorized by USEPA, the account representative may request early reduction credits (ERCs) for such reductions, and the Agency will allocate ERCs to the budget unit in accordance with the following:

- a) Each budget unit for which the account representative requests any ERCs under subsection (d) of this Section must monitor NO<sub>x</sub> emissions in accordance with 40 CFR 96, subpart H, as incorporated by reference in Section 217.104 of this Part, starting with the control period prior to the control period for which ERCs will first be requested and for each control period for which ERCs will be requested. For example, if ERCs are requested for reduction made in the 2001 control period, the budget unit must have implemented the applicable monitoring for the 2000 control period. The budget unit's monitoring system availability must be not less than 90 percent during the control period prior to the control period in which the NO<sub>x</sub> emissions reduction is made and the budget unit must be in compliance with any applicable State or federal emissions or emissions-related requirements.
- b) The NO<sub>x</sub> emission rate and heat input under subsections (c) through (e) of this Section shall be determined in accordance with 40 CFR 96, subpart H.
- c) Each budget unit for which ERCs are requested under subsection (d) of this Section must have reduced its NO<sub>x</sub> emission rate for each control period for which ERCs are requested by at least 30% less than the actual NO<sub>x</sub> emissions rate (lbs/mmbtu) for the 2001 control period.
- d) The account representative of a budget unit that meets the requirements of subsections (a) through (c) of this Section may submit to the Agency a request for ERCs for the budget unit based on NO<sub>x</sub> emission rate reductions made by the budget

unit in control periods 2001, 2002 and 2003 in accordance with subsection (c) of this Section.

- 1) The number of ERCs that may be requested for any applicable control period shall be an amount equal to the budget unit's heat input for such control period multiplied by the difference between the budget unit's NO<sub>x</sub> emission rate (meeting the requirements of subsection (c) of this Section for such the applicable control period) and the budget unit's actual NO<sub>x</sub> emission rate for the applicable control period, divided by 2000 lbs/ton, and rounded to the nearest ton;
- 2) Upon request of the account representative, the ERC allowance allocation for a particular budget unit may be deposited in the source's overdraft account rather than in the budget unit's compliance account; and
- 3) The early reduction request must be submitted in a format specified by the Agency by:
  - A) November 1, 2001 for reductions made in the 2001 control period;
  - B) November 1, 2002, for reductions made in the 2002 control period;  
and
  - C) November 1, 2003, for reductions made in the 2003 control period.
- e) In the event that the date for implementing the NO<sub>x</sub> SIP Call, May 31, 2004, is delayed, the early reduction request must be submitted in accordance with any rulemaking or guidance by USEPA on the distribution of the Compliance Supplement Pool under the NO<sub>x</sub> SIP Call, 63 Fed. Reg.57356 (October 27, 1998).
- f) The Agency will allocate ERCs to the budget units meeting the requirements of subsections (a) through (c) of this Section and covered by ERC requests meeting the requirements of subsection (d) of this Section in accordance with the following procedures:
  - 1) Upon receipt of each ERC request, the Agency will accept the request only if the requirements of subsections (a) through (d) of this Section are met and will make any necessary adjustment to the request to ensure that the amount of the ERCs requested meets the requirements of subsections (b) through (d) of this Section;
  - 2) The Agency shall allocate no more than 2,427 ERCs over three years, as follows:
    - A) Not more than one-half of the total ERC allowances for reductions made in the control period in 2001;
    - B) Not less than one-half of the total ERC allowances for reductions made in the control period in 2002; and

- C) If approved by USEPA, any ERC allowances not allocated pursuant to subsections (f)(2)(A) or (B) of this Section, for reductions made in the control period in 2003.
- 3) If the number of ERC allowances requested for a reduction achieved in the control period in 2003 is less than or equal to the number of ERC allowances designated for that control period in subsection (f)(2)(A) and (B) of this Section, the Agency will allocate to each budget unit one allowance for each accepted ERC request; and
- 4) If the number of ERC allowances requested for a reduction achieved in control period in 2003 is greater than the number of ERC allowances designated for that control period in subsection (e)(2)(A) of this Section, the Agency will allocate to each budget unit allowances for accepted requests on a pro-rata basis.
- g) The Agency will notify the account representative submitting an ERC request for the subsequent control period of the number of ERC allowances that will be allocated to each budget unit for that control period as follows:
- 1) By March 1, 2002, for ERCs requested for and earned in the 2001 control period;
- 2) By March 1, 2003, for ERCs requested for and earned in the 2002 control period; and
- 3) By March 1, 2004, for ERCs requested for and earned in the 2003 control period.
- h) By May 1, 2004, the Agency will submit to USEPA the ERC allocations made by the Agency under this Section. USEPA will record such allocations to the extent that they are consistent with the requirements of this Section.
- i) ERC allowances recorded under subsection (h) of this Section may be deducted for compliance under 40 CFR 96.54, as incorporated by reference in Section 217.104 of this Part, for the control period in 2004 or such control periods as may be specified by USEPA. Notwithstanding 40 CFR 96.55(a), USEPA will deduct as retired any ERC allowances that are not deducted for compliance in accordance with 40 CFR 96.54 for the control period in 2004 or such control periods as may be specified by USEPA.
- j) ERC allowances are treated as banked allowances in 2004 for the purposes of 40 CFR 96.55(a) and (b).

(Source: Added at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 217.674 Opt-in Units

- a) Any operating fossil fuel-fired stationary boiler, combustion turbine, combined cycle system, cement kiln or stationary internal combustion engine in the State may qualify under this Subpart to become a opt-in budget unit if it:
- 1) Is not a budget EGU under Subpart W of this Part;
  - 2) Vents all of its emissions to a stack;
  - 3) Has documented heat input for more than 876 hours in the six months immediately preceding the submission of an application for an initial budget permit under subsection (d) of this Section;
  - 4) Is not covered by a retired unit exemption under 40 CFR 96.5; and
  - 5) Is not covered by the low-emitter exemption under Section 217.654(c) of this Subpart.
- b) Except as otherwise provided in this Subpart, a opt-in budget unit shall be treated as a budget unit for purposes of applying this Subpart and 40 CFR 96.
- c) Authorized Account Representative:
- 1) If an opt-in unit is located at the same source as one or more budget units, it shall have the same account representative as those budget units.
  - 2) If the opt-in unit is not located at the same source as one or more budget units, the owner or operator of the opt-in unit shall submit a complete account certificate of representation under 40 CFR 96.13.
- d) To apply for a budget permit, the account representative of a unit meeting the qualifications of subsection (a) of this Section must, except as provided under Section 217.678(f) of this Subpart, submit to the Agency:
- 1) A budget permit application for the unit that:
    - A) Meets the requirements under Section 217.658 of this Subpart; and
    - B) Contains provisions for a change in the regulatory status of the unit to a opt-in budget unit under Section 217.654 of this Subpart pursuant to the provisions of Section 217.680(b) of this Subpart.
  - 2) A monitoring plan for the unit in accordance with 40 CFR 96, subpart H.

(Source: Added at \_\_\_\_\_ Ill. Reg., \_\_\_\_\_, effective \_\_\_\_\_)

Section 217.676 Opt-In Process

The owner or operator of a unit meeting the qualifications of Section 217.674(a) of this Subpart may submit an application for a budget permit for a opt-in budget unit under Section 217.674(d) of this Subpart. The Agency will issue or deny a budget permit for such opt-in unit in accordance with Section 217.658 of this Subpart and the following:

- a) The Agency will determine, on an interim basis, the sufficiency of the monitoring plan accompanying the initial application for a budget permit for an opt-in unit. A monitoring plan is sufficient, for purposes of interim review, if the plan contains information demonstrating that the NO<sub>x</sub> emission rate and heat input of the unit are monitored and reported in accordance with 40 CFR 96, subpart H. A determination of sufficiency shall not be construed as acceptance or approval of that unit's monitoring plan.
- b) If the Agency determines that the unit's monitoring plan is sufficient under subsection (a) of this Section and after completion of the monitoring system certification under 40 CFR 96, subpart H, the NO<sub>x</sub> emission rate and the heat input of the unit shall be monitored and reported in accordance with 40 CFR 96, subpart H, for one full control period during which the monitoring system availability is not less than 90 percent and during which the unit is in full compliance with any applicable State or federal emissions or emissions-related requirements.
- c) Based on the information monitored and reported under subsection (b) of this Section, the unit's baseline heat rate shall be calculated as the unit's total heat input (in mmbtu) for the control period and the unit's baseline NO<sub>x</sub> emission rate shall be calculated as the unit's total NO<sub>x</sub> emissions (in lbs) for the control period divided by the unit's baseline heat rate.

(Source: Added at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 217.678 Opt-in Budget Units: Withdrawal from NO<sub>x</sub> Trading Program

- a) Requesting withdrawal. To withdraw from the NO<sub>x</sub> Trading Program, the account representative of a opt-in budget unit shall submit to the Agency a request to withdraw from the NO<sub>x</sub> Trading Program and to withdraw the budget permit effective as of a specified date between (and not including) September 30 and before May 1. The submission shall be made no later than 90 days prior to the requested effective date of withdrawal.
- b) Conditions for withdrawal. Before an opt-in budget unit may withdraw from the NO<sub>x</sub> Trading Program and the budget permit may be withdrawn under this Section, the following conditions must be met:
  - 1) For the control period immediately before the withdrawal is to be effective, the account representative must submit to the Agency an annual compliance certification report in accordance with 40 CFR 96.30.
  - 2) If the opt-in budget unit has excess emissions for the control period immediately before the withdrawal is to be effective, USEPA has deducted

from the opt-in budget unit's compliance account, or the overdraft account of the NO<sub>x</sub> budget source where the opt-in budget unit is located, the number of allowances required in accordance with 40 CFR 96.54(d) for the control period.

- 3) After the requirements for withdrawal under subsections (b)(1) and (2) of this Section are met, USEPA will deduct from the opt-in unit's compliance account, or the overdraft account of the budget source where the opt-in budget unit is located, allowances equal in number to any allowances allocated to that unit under Section 217.782 of this Subpart for the control period for which the withdrawal is to be effective and earlier control periods. USEPA will close the opt-in budget unit's compliance account and will establish, and transfer any remaining allowances to, a new general account for the owners and operators of the opt-in unit. The account representative for the opt-in budget unit shall become the account representative for the general account.
- c) A opt-in budget unit that withdraws from the Subpart U NO<sub>x</sub> Trading Program shall comply with all requirements under the NO<sub>x</sub> Trading Program concerning all years for which such opt-in budget unit was a opt-in budget unit, even if such requirements arise or must be complied with after the withdrawal takes effect.
  - d) Notification:
    - 1) After the requirements for withdrawal under subsections (a) and (b) of this Section are met (including deduction of the full amount of allowances required), the Agency will revise the budget permit indicating a specified effective date for the withdrawal that is after the requirements in subsections (a) and (b) of this Section have been met and that is prior to May 1 or after September 30.
    - 2) If the requirements for withdrawal under subsections (a) and (b) of this Section are not met, the Agency will issue a notification to the owner or operator and the account representative of the opt-in budget unit that the opt-in unit's request to withdraw its budget permit is denied. If the opt-in budget unit's request to withdraw is denied, the opt-in budget unit shall remain subject to the requirements for a opt-in budget unit.
  - e) Reapplication upon failure to meet conditions of withdrawal. If the Agency denies the opt-in budget unit's request to withdraw, the account representative of the opt-in budget unit may submit another request to withdraw in accordance with subsections (a) and (b) of this Section.
  - f) Ability to return to the NO<sub>x</sub> Trading Program. Once an opt-in unit withdraws from the NO<sub>x</sub> Trading Program and its budget permit is withdraw under this Section, the account representative may not submit another application for a budget permit

under Section 217.674(d) of this Subpart for the unit prior to the date that is four years after the date on which the budget permit with opt-in conditions is withdrawn.

(Source: Added at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 217.680 Opt-in Units: Change in Regulatory Status

- a) Notification. When an opt-in unit becomes an opt-in budget unit under Section 217.654(d) of this Subpart, the owner or operator shall notify the Agency and USEPA in writing of such change in the opt-in unit's regulatory status within 30 days of such change.
- b) Any permit application that provides for a change in the regulatory status of a unit to a opt-in budget unit pursuant to Section 217.674(d)(1)(B) of this Subpart and included in a budget permit, is effective on the date on which such opt-in unit becomes a opt-in budget unit under Section 217.654 of this Subpart.
- c) USEPA's action.
- 1) USEPA will deduct from the compliance account for the opt-in budget unit under this Section, or the overdraft account of the budget source where the opt-in budget unit is located, allowances equal in number to and allocated for the same or a prior control period as:
    - A) Any allowances allocated to the budget unit (as an opt-in unit) under Section 217.682 of this Subpart for any control period after the last control period during which the unit's budget permit was effective; and
    - B) If the effective date of any budget permit under subsection (b) of this Section is during a control period, the allowances allocated to the opt-in budget unit (as an opt-in unit) under Section 217.682 of this Subpart for the control period multiplied by the ratio of the number of days in the control period, starting with the effective date of the budget permit under subsection (b) of this Section, divided by the total number of days in the control period.
  - 2) The account representative shall ensure that the compliance account of the opt-in budget unit under subsection (b) of this Section, or the overdraft account of the budget source where the opt-in budget unit is located, contains the allowances necessary for completion of the deduction under subsection (c)(1) of this Section. If the compliance account or overdraft account does not contain sufficient allowances, USEPA will deduct the required number of allowances, regardless of the control period for which they were allocated, whenever allowances are recorded in either account.
  - 3) For every control period during which any budget permit under subsection (b) of this Section is effective, the opt-in budget unit under subsection (b) of

this Section will be treated, solely for purposes of allowance allocations under Section 217.666 or 217.668 of this Subpart, as a unit that commenced operation on the effective date of the budget permit under subsection (b) of this Section and will be allocated allowances in accordance with Section 217.666 or 217.668 of this Subpart.

- 4) Notwithstanding subsection (c)(2) of this Section, if the effective date of any budget permit under subsection (b) of this Section is during a control period, the following number of allowances will be allocated to the opt-in budget unit under subsection (b) of this Section under Section 217.666 or 217.668 of this Subpart for the control period: the number of allowances otherwise allocated to the opt-in budget unit under Section 217.666 or 217.668 of this Subpart for the control period multiplied by the ratio of the number of days in the control period, starting with the effective date of the budget permit under subsection (b) of this Section, divided by the total number of days in the control period.
- d) When the owner or operator of an opt-in unit does not renew the budget permit for the opt-in budget unit issued pursuant to Section 217.674(d), USEPA will deduct from the opt-in budget unit's compliance account, or the overdraft account of the budget source where the opt-in budget unit is located, allowances equal in number to and allocated for the same or a prior control period as any allowances allocated to the opt-in budget unit under Section 217.682 of this Subpart for any control period after the last control period for which the budget permit is effective. The account representative shall ensure that the opt-in budget unit's compliance account or the overdraft account of the budget source where the opt-in budget unit is located contains the allowances necessary for completion of such deduction. If the compliance account or overdraft account does not contain sufficient allowances, USEPA will deduct the required number of allowances, regardless of the control period for which they were allocated, whenever allowances are recorded in either account.
- e) After the deduction under subsection (d) of this Section is completed, USEPA will close the opt-in unit's compliance account. If any allowances remain in the compliance account after completion of such deduction and any deduction under 40 CFR 96.54, USEPA will close the opt-in unit's compliance account and will establish, and transfer any remaining allowances to, a new general account for the owner or operator of the opt-in unit. The account representative for the opt-in unit shall become the account representative for the general account.

(Source: Added at \_\_\_\_\_ Ill. Reg., \_\_\_\_\_, effective \_\_\_\_\_)

Section 217.682 Allowance Allocations to Opt-in Budget Units

- a) Allowance allocations:

- 1) By the December 31 immediately before the first control period for which the budget permit is effective, the Agency will allocate allowances to the opt-in budget unit and submit to USEPA the allocation for the control period in accordance with subsection (b) of this Section.
  - 2) By no later than the December 31 after the first control period for which the budget permit is in effect and the December 31 of each year thereafter, the Agency will allocate allowances to the opt-in budget unit and submit to USEPA allocations for the next control period, in accordance with subsection (b) of this Section.
- b) For the first control period, and for each subsequent control period for which the opt-in budget unit has a budget permit, the opt-in budget unit will be allocated allowances in accordance with the following procedures:
- 1) The heat input (in mmbtu) used for calculating allowance allocations will be the lesser of:
    - A) The opt-in unit's baseline heat input determined pursuant to Section 217.676(c) of this Subpart; or
    - B) The opt-in unit's heat input, for the control period in the year prior to the year of the first control period for which the allocations are being calculated, as determined in accordance with 40 CFR 96, subpart H.
  - 2) The Agency will allocate allowances to the opt-in budget unit in an amount equaling the heat input (in mmbtu) determined under subsection (b)(1) of this Section multiplied by the lesser of:
    - A) The unit's baseline NO<sub>x</sub> emission rate (in lbs/mmbtu) determined pursuant to Section 217.676(c) of this Subpart; or
    - B) The lowest NO<sub>x</sub> emissions limitation (calculated in lbs/mmbtu) under State or federal law that is applicable to the budget opt-in for year of the control period for which the allocations are being calculated, regardless of the averaging period to which the emissions limitation applies.

(Source: Added at \_\_\_\_\_ Ill. Reg., \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART X: VOLUNTARY NO<sub>x</sub> EMISSIONS REDUCTION PROGRAM

### Section 217.800      Purpose

The purpose of this Subpart is to implement Section 9.9(d)(3) of the Act by providing a method by which additional NO<sub>x</sub> allowances may be generated for use by emission units subject to the requirements of Subparts U or W of this

Part. [415 ILCS 5/9.9(d)(3)] Verifiable, quantifiable, and federally enforceable emission reductions meeting the requirements of this Subpart and for which allowances are allocated will be transferred by the Agency from the non-trading portion of the statewide NO<sub>x</sub> budget, as established in the so-called NO<sub>x</sub> SIP Call, 63 Fed. Reg. 57356 (October 27, 1998), to either the EGU or non-EGU portion of the NO<sub>x</sub> trading budget, as applicable.

(Source: Added at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 217.805      Emission Unit Eligibility

Any owner or operator of a stationary source may submit a proposal, as provided in Section 217.835 of this Subpart, for voluntarily reducing NO<sub>x</sub> emissions during the control period, if each emission unit from which NO<sub>x</sub> reductions at the source will be obtained meets the following criteria:

- a) Discharges through a stack;
- b) Is fossil fuel-fired;
- c) Was permitted to operate prior to January 1, 1995;
- d) Is not subject to the requirements of either Subpart T, U, V or W of this Part;
- e) Is not a retired unit pursuant to 40 CFR 96.5;
- f) Has not elected to become an opt-in unit pursuant to Section 217.754 or Section 217.774 of this Part; and
- g) Has not created NO<sub>x</sub> offsets recognized under 35 Ill. Adm. Code 203.

(Source: Added at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 217.810      Participation Requirements

- a) Any owner or operator of a source ("emission reduction source") with one or more emission units meeting the requirements of Section 217.805 of this Subpart and seeking to make, quantifiable, verifiable and federally enforceable voluntary reductions of NO<sub>x</sub> emissions during the control period from one or more emission units ("emission reduction units") must comply with the following requirements:
  - 1) Submit a NO<sub>x</sub> emission reduction proposal that meets the requirements of Section 217.835 of this Subpart;
  - 2) Request an emission cap on NO<sub>x</sub> emissions from all NO<sub>x</sub> emission units at the emission reduction source that are not otherwise subject to Subparts U or W of this Part, and that are the same type of emission unit as the emission reduction unit (e.g., if the emission reduction unit is a boiler, combined cycle system or turbine, then the emission cap must include all boilers, combined cycle systems or turbines that are not otherwise subject to Subparts U or W of this Part, or if the emission unit is a cement kiln, then the emission cap must include all cement kilns), provided, however, the

owner or operator of the source may submit a demonstration in accordance with Section 217.835 of this Subpart that any like-kind emission unit or units should not be included in the NO<sub>x</sub> emission cap;

- 3) Demonstrate how the NO<sub>x</sub> emission cap required by subsection (a)(2) of this Section is to be determined, in accordance with Sections 217.820 and 217.845 of this Subpart, which cap reflects the NO<sub>x</sub> emission reduction specified in the proposal;
- 4) Permit requirements:
  - A) Obtain a permit, or an amendment to an existing permit, for the source, with federally enforceable conditions addressing the commitments in the NO<sub>x</sub> emission reduction proposal and the emissions cap by the later of May 1, 2003, or the date on which the reduction in NO<sub>x</sub> emissions will commence and operate the source in compliance with such permit; or
  - B) For each emission unit that will be generating voluntary NO<sub>x</sub> emissions by ceasing operation, withdrawing the applicable permit, or requesting a revision to the permit to reflect the shut down of the emission reduction unit, by the later of May 1, 2003, or the date specified in the NO<sub>x</sub> reduction proposal.
- 5) Submit an emissions baseline determination for each unit subject to the NO<sub>x</sub> emission cap in accordance with the requirements of Section 217.820 of this Subpart.
- 6) Monitoring requirements:
  - A) To the extent applicable, each emission reduction unit at the source shall comply with the monitoring requirements of Section 217.850 of this Subpart.
  - B) The emissions measurements recorded and reported in accordance with Sections 217.850 and 217.855 of this Subpart shall be used to determine compliance by the emission reduction unit with the emissions limitation set forth in the NO<sub>x</sub> emission reduction proposal and the federally enforceable permit conditions required pursuant to subsection (a)(3) of this Section.
  - C) The emissions measurements recorded and reported in accordance with Sections 217.850 and 217.855 of this Subpart shall be used to determine compliance by the emission reduction source with the emissions cap set forth in the NO<sub>x</sub> emission reduction proposal and the federally enforceable permit condition required pursuant to Section 217.850(a)(3) of this Subpart.

- b) The owner or operator of the emission reduction source is required to submit an annual certification to the Agency that the source has complied with the cap on NO<sub>x</sub> emissions for the source and the NO<sub>x</sub> emission reductions specified in the approved proposal were made pursuant to the requirements of Section 217.850 of this Subpart.

(Source: Added at \_\_\_\_\_ Ill. Reg., \_\_\_\_\_, effective \_\_\_\_\_)

Section 217.815 Methods To Obtain NO<sub>x</sub> Emission Reductions

Quantifiable, verifiable, and enforceable NO<sub>x</sub> emission reductions for which allowances are issued will be shifted from the non-trading portion of the statewide NO<sub>x</sub> budget to the NO<sub>x</sub> trading budget only for those NO<sub>x</sub> emissions reductions that meet one or more of the following criteria:

- a) Due to the use of any NO<sub>x</sub> emission reduction technology (e.g., combustion or post combustion control technology or fuel switching) at the emission reduction unit pursuant to federally enforceable conditions in the permit for the unit addressing such control technology or fuel switching, NO<sub>x</sub> emissions from the emission reduction unit for any control period beginning in 2003 are or will be lower than such unit's actual emissions in the 1995 control period. The amount of actual NO<sub>x</sub> emission reductions shall be determined in accordance with Section 217.820 of this Subpart, and the amount of creditable NO<sub>x</sub> emission reductions shall be determined in accordance with Section 217.825 of this Subpart;
- b) The emission reduction unit is permanently shut down after January 1, 1995, and the owner or operator requests a revision to the relevant operating permit to reflect the shut down of the emission reduction unit. The amount of actual NO<sub>x</sub> emission reductions shall be determined in accordance with Section 217.820 of this Subpart, and the amount of creditable NO<sub>x</sub> emission reductions shall be determined in accordance with Section 217.825 of this Subpart;
- c) During any control period beginning in 2003, the emission reduction unit's control period NO<sub>x</sub> emission rate or hours of operation is reduced pursuant to federally enforceable conditions in a permit for such unit, resulting in an actual reduction in NO<sub>x</sub> emissions from such unit's actual 1995 control period NO<sub>x</sub> emissions. The amount of actual NO<sub>x</sub> emission reductions shall be determined in accordance with Section 217.820 of this Subpart, and the amount of creditable NO<sub>x</sub> emission reductions shall be determined in accordance with Section 217.825 of this Subpart.

(Source: Added at \_\_\_\_\_ Ill. Reg., \_\_\_\_\_, effective \_\_\_\_\_)

Section 217.820 Baseline Emissions Determination

An emission unit's actual emissions during the 1995 control period shall be determined as follows:

- a) By multiplying the unit's actual emissions during the 1995 calendar year, as reported in the annual emission report submitted in accordance with 35 Ill. Adm. Code 254, by 5/12ths; or

- b) If the NO<sub>x</sub> emissions from the unit were not included in the emission reduction source's 1995 annual emissions report submitted to the Agency pursuant to 35 Ill. Adm. Code 254, by determining the base case amount included for such unit in the NO<sub>x</sub> SIP Call inventory, as specified in the "Technical Support Document for Illinois' Statewide NO<sub>x</sub> Budget, " (63 Fed. Reg. 17349 (Nov. 7, 1997)); or
- c) If the NO<sub>x</sub> baseline emissions for the 1995 control period cannot be determined by the either of the methods listed in subsection (a) or (b) of this Section, such actual NO<sub>x</sub> baseline emissions shall be determined based on the average emission rate multiplied by the average number of hours of operation from two of the three control periods, as selected by the emission reduction source, prior to the year the emission reduction proposal is effective. The unit's emission rate and hours of operation will be determined based on the unit's reported NO<sub>x</sub> emission rate and hours of operation in the most recent annual emission reports for such unit submitted in accordance with 35 Ill. Adm. Code 254.

(Source: Added at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 217.825      Calculation of Creditable NO<sub>x</sub> Emission Reductions

- a) For shut down units, the gross amount of control period actual NO<sub>x</sub> emission reductions shall be determined pursuant to Section 217.820(a) or (b) of this Subpart. Eighty percent (80%) of the actual NO<sub>x</sub> emission reductions achieved by shut down units, as determined in accordance with Sections 217.820(a) or (b) shall be creditable. Twenty percent (20%) of the NO<sub>x</sub> emissions reductions shall be retired for the benefit of air quality;
- b) For actual NO<sub>x</sub> emission reductions achieved pursuant to Sections 217.815(a) or (c), the gross amount of control period actual NO<sub>x</sub> emission reductions shall be determined pursuant to Section 217.820(b) of this Subpart. Eighty percent (80%) of the actual NO<sub>x</sub> emission reductions achieved pursuant to Sections 217.815(a) or (c) of this Subpart shall be creditable. Twenty percent (20%) of the actual NO<sub>x</sub> emissions reductions shall be retired for the benefit of air quality.

(Source: Added at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 217.830      Limitations of NO<sub>x</sub> Emissions Reductions

- a) Each NO<sub>x</sub> allowance issued pursuant to NO<sub>x</sub> emission reductions meeting the requirements of this Subpart is a limited authorization to emit one ton of NO<sub>x</sub> in accordance with the federal NO<sub>x</sub> Trading Program as set forth in Subparts U or W of this Part, as applicable. No provision of the federal NO<sub>x</sub> Trading Program, the emission reduction proposal, the permit application, the permit, or of law shall be construed to limit the authority of the United States or the State to terminate or limit such authorization.
- b) Any NO<sub>x</sub> allowance issued in accordance with this Subpart does not constitute a property right.

(Source: Added at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 217.835      NO<sub>x</sub> Emission Reduction Proposal

- a) A NO<sub>x</sub> emission reduction proposal shall include the following:
- 1) Information identifying each emission unit at the source that emits NO<sub>x</sub>, whether the unit is subject to Subpart T, U, V, W or X of this Part, and the baseline emissions for each emission unit subject to the NO<sub>x</sub> emission cap as determined in accordance with Section 217.820 of this Subpart;
  - 2) Information identifying each emission reduction unit from which the NO<sub>x</sub> emission reductions have been or will be achieved;
  - 3) An explanation of the method used to achieve the NO<sub>x</sub> emission reductions;
  - 4) The amount of the NO<sub>x</sub> emission reductions, including supporting calculations and documentation, such as fuel usage information;
  - 5) The emission units subject to the NO<sub>x</sub> emission cap in accordance with Section 217.810(a) of this Subpart, and if all like-kind or same-type emission units are not proposed to be included within the NO<sub>x</sub> emission cap, an explanation of how the owner or operator of the emission reduction source will ensure that production shifting will not occur, such that the emission reduction source will achieve real, verifiable, and quantifiable NO<sub>x</sub> emission reductions;
  - 6) The control period NO<sub>x</sub> emission cap to be achieved by the emission reduction source, including both the baseline emissions for each recipient unit subject to the NO<sub>x</sub> emission cap and the NO<sub>x</sub> emission reductions from the emission reduction unit(s) included in the proposal;
  - 7) The name and address of the owner or operator of each emission unit to which the NO<sub>x</sub> allowances will be allocated, the Subpart of this Part (i.e., Subpart U or W) to which each unit is subject, including the name, telephone number, and account number of the account representative for each such unit; and
  - 8) Certification by the owner or operator of each unit that is the subject of each proposed emission reduction proposal of his/her acceptance of the terms of the proposal and certification that the emission reductions specified in the proposal have been or will be achieved.
- b) The owner or operator of a source submitting an emission reduction proposal must notify the Agency in writing within 30 days of any event or circumstance that makes NO<sub>x</sub> emission reduction proposal incorrect or incomplete.
- c) The owner or operator of a source submitting an emission reduction proposal may request to withdraw its emission reduction proposal, and cease to create NO<sub>x</sub> allowances under this Subpart, as follows:

- 1) Requesting withdrawal. To withdraw from participation under this Subpart, the owner or operator of an emission reduction unit shall submit to the Agency a written request to withdraw from participation and to withdraw or revise the applicable permit effective as of a specified date between (and not including) September 30 and before May 1. The submission shall be made no later than 90 days prior to the requested effective date of withdrawal.
- 2) Conditions for withdrawal. Before an emission reduction source may withdraw from participation, and the federally enforceable permit may be withdrawn under this Section, for the control period immediately before the withdrawal is to be effective, the owner or operator must submit to the Agency an annual compliance certification report in accordance with Section 217.855 of this Subpart.
- 3) An emission reduction source that withdraws from the this Subpart shall comply with all requirements under its approved emission reduction proposal and federally enforceable permit conditions addressing such proposal concerning all years for which the emission reduction source was in the program, even if such requirements arise or must be complied with after the withdrawal takes effect.
- 4) Notification:
  - A) After the requirements for withdrawal under subsections (a) and (b) of this Section are met, the Agency will revise the permit indicating a specified effective date for the withdrawal that is after the requirements in subsections (a) and (b) of this Section have been met and that is prior to May 1 or after September 30.
  - B) If the requirements for withdrawal under subsections (a) and (b) of this Section are not met, the Agency will issue a notification to the owner or operator of the emission reduction source that the request to withdraw its permit is denied. If the request to withdraw is denied, the source shall remain subject to the requirements of its approved emission reduction proposal and federally enforceable permit conditions addressing the proposal and the requirements of this Subpart.
- 5) Reapplication upon failure to meet conditions of withdrawal. If the Agency denies the request of the owner or operator of the emission reduction source's request to withdraw, the owner or operator of the source may submit another request to withdraw in accordance with subsections (a) and (b) of this Section.

- 6) Upon successful withdrawal from the program, the emission reduction source shall no longer be subject to the provisions of this Subpart.

(Source: Added at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 217.840      Agency Action

- a) The Agency shall notify the owner or operator submitting a NO<sub>x</sub> emission reduction proposal in writing of its decision with respect to the proposal within 90 days after receipt of such proposal and, if applicable, of NO<sub>x</sub> emissions data to verify that the specified reductions have occurred. The owner or operator of the emission reduction source may extend the deadline for Agency action in writing. If the Agency disapproves or conditionally approves a proposal, this written notice shall include a statement of the specific reasons for the disapproval or conditional approval of the proposal. The following shall be considered a final Agency action for the purposes of appeal: if the Agency fails to take action within such 90 day period, subject to any extension, or a decision by the Agency to disapprove a proposal. If the Agency conditionally approves a proposal, the owner or operator of the emission reduction source has 30 days to submit a modified proposal addressing the specific items listed by the Agency. If the owner and operator of the emission reduction source does not submit a modified emission reduction proposal within such 30 day period, the conditional approval shall be deemed to be a disapproval, and shall be deemed to be a final action for purposes of appeal.
- b) The NO<sub>x</sub> emissions reduction proposal will not be effective until:
- 1) After the owner or operator of the emission reduction source has obtained or modified a permit with federally enforceable conditions addressing the requirements of this Subpart; or
  - 2) If NO<sub>x</sub> emission reductions are being obtained by the shut down of an emission reduction unit, the owner or operator of the emission reduction unit has either obtained or modified a permit with federally enforceable conditions addressing the requirements of this Subpart, or has withdrawn the applicable permit and the Agency has published notice and offered an opportunity to comment on such withdrawal, pursuant to 35 Ill. Adm. Code 252, on its proposed approval of the emission reduction proposal for the shut down of the emission reduction unit and the creditable NO<sub>x</sub> emission reductions that will be created by the shut down.
- c) If the Agency approves the proposal, and subject to the provisions of subsection (b) of this Section, the Agency shall allocate any allowances issued by USEPA in accordance with either Subpart U or Subpart W of this Part and the following:
- 1) Any allowance allocated pursuant to this Subpart shall be issued to the recipient emission unit identified in the proposal, for each control period in

which the NO<sub>x</sub> emissions reductions are verified, and the requirements of this Subpart continue to be met;

- 2) The owner or operator of the emission reduction source has, by November 1st following the control period that the emission reduction unit has reduced NO<sub>x</sub> emissions, verified the NO<sub>x</sub> emission reductions in accordance with Section 217.845 of this Subpart, and obtained a permit containing federally enforceable conditions addressing the requirements of this Subpart;
- 3) The allowances shall be issued by May 1 after the control period in which the reduction has occurred, for use in any future control period.

(Source: Added at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 217.845 Emissions Determination Methods

The owner or operator of an emission reduction source must demonstrate that it has obtained the NO<sub>x</sub> emission reductions, and has not exceeded its NO<sub>x</sub> emission cap, as specified in its approved NO<sub>x</sub> emission reduction proposal, as follows:

- a) If the NO<sub>x</sub> emission reductions are generated pursuant to Section 217.815(a) of this Subpart, the NO<sub>x</sub> emission rate for each emission reduction unit shall be determined as follows:
  - 1) Through the use of continuous emissions monitoring in accordance with Section 217.850 of this Subpart; or
  - 2) Through the use of any test methods and procedures provided in 40 CFR 60 and approved by the Agency, or any other method approved by the Agency when included as federally enforceable conditions in a permit issued or revised pursuant to this Subpart.
- b) If the NO<sub>x</sub> emission reductions are generated pursuant to Section 217.815(c) of this Subpart, submit an initial compliance demonstration plan to the Agency 120 days prior to the control period date that the emission reduction unit will commence NO<sub>x</sub> emission reductions in compliance with an approved emissions reduction proposal. Such demonstration shall be based on the actual NO<sub>x</sub> emission rate measured in accordance with Section 217.850 of this Subpart.
- c) If the emission reduction unit's compliance with the NO<sub>x</sub> emission reduction proposal is determined in accordance with subsection (a)(2) of this Section, conducting an initial test 90 days prior to the date the specified emission reductions will be obtained, or within 45 days of the Agency's request for NO<sub>x</sub> emission reductions already obtained, and notifying the Agency in writing of any test performed to comply with the requirements of this Subpart at least 30 days prior to the test. The Agency may at any time require annual control period testing of any emission unit at the NO<sub>x</sub> emission reduction source, and may require such testing as part of its approval of a NO<sub>x</sub> emission reduction proposal.
- d) The owner or operator of an emission reduction source must submit a compliance certification, including supporting data, by November 1<sup>st</sup> following each control period in which NO<sub>x</sub> emission reductions are generated that the NO<sub>x</sub> emission cap, as specified in its approved NO<sub>x</sub> emission reduction proposal, has not been exceeded, and must monitor and report the NO<sub>x</sub> emissions during each control period from all NO<sub>x</sub> emission units at the source subject to the NO<sub>x</sub> emission cap in accordance with Sections 217.850 and 217.855 of this Subpart.

- e) The owner or operator of an emission reduction source shall, 120 days prior to the date that the emission reduction source will commence NO<sub>x</sub> emission reductions in compliance with an approved emissions reduction proposal, submit a performance evaluation for each CEMS using the applicable performance specifications in 40 CFR 60, Appendix B, as incorporated by reference in Section 217.104 of this Part.

(Source: Added at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 217.850      Emissions Monitoring

- a) Except for shut down NO<sub>x</sub> emission reduction units, the owner operator of an emission reduction source shall install, calibrate, maintain, and operate during the control period on each NO<sub>x</sub> emission unit at the source subject to the NO<sub>x</sub> emission cap a continuous emission monitoring system (CEMS), or an alternative approved by the Agency and included in a federally enforceable permit condition, for measuring NO<sub>x</sub> emissions to the atmosphere and record the output of that system.
- b) The CEMS shall be operated and data recorded during all periods of operation of the emission unit at the source during the control period, except for CEMS breakdowns and repairs as provided in subsection (e) of this Section.
- c) CEMS quality assurance data must be recorded during calibration checks and zero and span adjustments.
- d) The 1-hour average NO<sub>x</sub> emissions measured by the CEMS shall be:
- 1) Expressed in lbs/hr or in lbs/mmbtu and heat input;
  - 2) Calculated using the data points required under 40 CFR 60.13, as incorporated by reference in Section 217.104 of this Subpart; and
  - 3) Calculated using at least two data points separated by a minimum of 15 minutes (where the unit operates for more than one quadrant of an hour) if data are unavailable as a result of the performance of calibration, quality assurance, or preventive maintenance activities.
- e) The procedures under 40 CFR 60.13, as incorporated by reference in Section 217.104 of this Subpart, shall be followed for installation, evaluation, and operation of each CEMS.
- f) For monitoring systems measuring NO<sub>x</sub> in lbs/hr, if NO<sub>x</sub> emission data are not obtained because of CEMS breakdown, repairs, calibration checks, and zero and span adjustments, NO<sub>x</sub> emission data shall be obtained by using the data substitution procedures contained in 40 CFR 75, subpart D, incorporated by reference in Section 217.104 of this Part.

- g) For monitoring systems measuring NO<sub>x</sub> in lbs/mmbtu, if NO<sub>x</sub> emission data are not obtained because of CEMS breakdown, repairs, calibration checks, and zero and span adjustments, NO<sub>x</sub> emission data shall be obtained by using the rolling hourly average of emission data recorded for the previous 30 day period of operation if the data capture for such period is 95% or greater and the period of missing data is equal to or less than 24 consecutive hours. If the data capture for such previous 30 day period is less than 95% or the period of missing data is greater than 24 consecutive hours, the data shall be obtained by using the highest hourly average recorded during the previous 30 days of operation.
- h) The CEMS shall be subject to the quality assurance procedures and requirements of 40 CFR 60, Appendix F, incorporated by reference in Section 217.104 of this Part.

(Source: Added at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 217.855      Reporting

- a) By November 1<sup>st</sup> of each year beginning in 2003, or the year of the first control period for which NO<sub>x</sub> emission reductions were generated in accordance with this Subpart, an owner or operator of an emission reduction source must, as a seasonal component of the annual emission report for the source pursuant to 35 Ill. Adm. Code 254, report the total control period NO<sub>x</sub> emissions of each NO<sub>x</sub> emission unit at the source subject to the NO<sub>x</sub> emission cap to the Agency.
- b) Within 30 days of receipt of such data or evaluation, the owner or operator of each emission reduction source shall submit to the Agency the performance test data from the initial performance test for each emission reduction unit and the performance evaluation for each CEMS using the applicable performance specifications in 40 CFR 60, Appendix B, as incorporated by reference in Section 217.104 of this Part.

(Source: Added at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 217.860      Recordkeeping

- a) The owner or operator of an emission reduction source shall keep and maintain the following records for each NO<sub>x</sub> emission unit at the source subject to the NO<sub>x</sub> emission cap:
- 1) Daily, monthly, and control period operating hours;
  - 2) Type and quantity of each fuel used daily during the control period;
  - 3) Control period capacity factor of individual fuels fired and all fuels fired;
  - 4) Monitoring records:

- A) The performance test data from the initial performance test for each emission reduction unit and the performance evaluation for each CEMS using the applicable performance specifications in 40 CFR 60, Appendix B, as incorporated by reference in Section 217.104 of this Part.
- B) Maintain records of the following information for each operating day for each NO<sub>x</sub> emission unit subject to the NO<sub>x</sub> emission cap:
- i) Calendar date;
  - ii) The average hourly NO<sub>x</sub> mass emission rate expressed as lb/hr;
  - iii) The control period total NO<sub>x</sub> mass emissions to date;
  - iv) Identification of times when emission data have been excluded from the calculation of NO<sub>x</sub> mass emissions, the reasons for excluding the data, and any corrective actions taken;
  - v) Identification of the times when the pollutant concentration exceeded full span of the CEMS;
  - vi) Description of any modifications to the CEMS that could affect the ability of the CEMS to comply with the Performance Specifications in 40 CFR 60, Appendix B; and
  - vii) Results of daily CEMS drift tests and quarterly accuracy assessments as required under 40 CFR 60, Appendix F.
- C) The owner or operator of any NO<sub>x</sub> emission reduction source subject to the continuous monitoring requirements for NO<sub>x</sub> under this Subpart, shall submit a compliance certification containing the information recorded under subsection (a)(4)(B) of this Section. All compliance certification reports shall be postmarked by November 1<sup>st</sup> or the next business day if November 1<sup>st</sup> falls on a Saturday or Sunday, of each control period in which NO<sub>x</sub> emission reductions are generated.
- b) Maintenance of records. Unless otherwise provided, the owner or operator of a NO<sub>x</sub> emission reduction source shall keep on site at the source, each of the following documents for a period of five (5) years from the date the document is created. This period may be extended for cause, at any time prior to the end of five (5) years, in writing by the Agency.
- 1) The emission reduction proposal and all documents that demonstrate the truth of the statements in the proposal for each year the emission reduction source generates NO<sub>x</sub> reductions under this Subpart and for five (5) years thereafter.

- 2) All emissions monitoring information required pursuant to this Subpart; provided that to the extent that 40 CFR 60 provides for a 3-year period for recordkeeping, the 3-year period shall apply.
- 3) Copies of all reports, compliance certifications, and other submissions and all records made or required under this Subpart.
- 4) Copies of all documents used to complete any permit application and supporting documents and any other submission to demonstrate compliance with the requirements of this Subpart.

(Source: Added at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 217.865      Enforcement

- a) Excess Emissions Requirements: The owner or operator of an emission reduction source for which NO<sub>x</sub> reductions have been recognized pursuant to this Section and that has excess NO<sub>x</sub> emissions in any control period for which NO<sub>x</sub> allowances have been issued must:
  - 1) For the first control period during which the emission reduction source has excess NO<sub>x</sub> emissions, purchase NO<sub>x</sub> allowances in an amount equal to two (2) times the excess NO<sub>x</sub> emissions in accordance with the federal NO<sub>x</sub> Trading Program and surrender the allowances to the Agency by December 31 following the control period in which the emission reduction source had excess emissions;
  - 2) For the second control period during which the emission reduction source has excess NO<sub>x</sub> emissions, purchase allowances in an amount equal to three (3) times the excess NO<sub>x</sub> emissions in accordance with the federal NO<sub>x</sub> Trading Program and surrender the allowances to the Agency by December 31 following the control period in which the emission reduction source had excess emissions;
  - 3) If the emission reduction source has excess NO<sub>x</sub> emissions for three control periods, purchase allowances in an amount equal to four (4) times the excess NO<sub>x</sub> emissions pursuant to the federal NO<sub>x</sub> Trading Program and surrender the allowances to the Agency by December 31 following the control period in which the emission reduction source had excess emissions, and the NO<sub>x</sub> emission reduction proposal shall be revoked. The emission reduction source will thereafter not be able to generate NO<sub>x</sub> emission reductions for which NO<sub>x</sub> allowances may be issued under this Subpart.
- b) All allowances surrendered to the Agency pursuant to subsections (a)(1) through (a)(3) of this Section shall be retired to benefit air quality.

- c) Nothing in this Subpart limits the authority of the state or the federal government to seek penalties and injunctive relief for any violation of this Subpart or any permit condition. Nothing in this Subpart limits the right of the state or the federal government or any person to directly enforce against actions or omissions which constitute violations of permits required by the Act or regulations promulgated there under or the CAA or applicable federal environmental laws and regulations.

(Source: Added at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 217. Appendix E Non-Electrical Generating Units**

COMPANY ID # / NAME	UNIT DESIGNATION	UNIT DESCRIPTION	BUDGET ALLOCATION	BUDGET ALLOCATION LESS 3% NSSA
1	2	3	4	5

**A. E. STALEY MANUFACTURING CO**

115015ABX	85070061299	COAL-FIRED BOILER 1	176	171
115015ABX	85070061299	COAL-FIRED BOILER 2	175	170
115015ABX	73020084129	BOILER #25	125	121
A. E. STALEY MANUFACTURING CO (Total Allocation)			476	462

**ARCHER DANIELS MIDLAND CO EAST PLANT**

115015AAE	85060030081	COAL-FIRED BOILER 1	238	231
115015AAE	85060030081	COAL-FIRED BOILER 2	261	253
115015AAE	85060030081	COAL-FIRED BOILER 3	267	259
115015AAE	85060030082	COAL-FIRED BOILER 4	276	268
115015AAE	85060030082	COAL-FIRED BOILER 5	275	267
115015AAE	85060030082	COAL-FIRED BOILER 6	311	302
115015AAE	85060030083	GAS-FIRED BOILER 7	19	18
115015AAE	85060030083	GAS-FIRED BOILER 8	19	18
ARCHER DANIELS MIDLAND CO EAST PLANT (Total Allocation)			1,666	1,616

**CORN PRODUCTS INTERNATIONAL INC**

031012ABI	91020069160	GAS-FIRED BOILER 6	55	53
031012ABI	73020146041	BOILER # 1 COAL-FIRED	210	204
031012ABI	73020146042	BOILER # 2 COAL-FIRED	210	203
031012ABI	73020146043	GAS FIRED BOILER NO 4 WEST STACK BLRS	81	79
031012ABI	73020147045	BOILER # 3 COAL-FIRED	211	205
031012ABI	73020147046	GAS FIRED BOILER NO 5-EAST STACK BOILER	81	79
CORN PRODUCTS INTERNATIONAL INC (Total Allocation)			848	823

**GREAT LAKES NTC**

097811AAC	78080071011	BOILER # 5	26	25
097811AAC	78080071011	BOILER # 6	26	25
GREAT LAKES NTC (Total Allocation)			52	50

**JEFFERSON SMURFIT CORPORATION**

119010AAL	72120426001	BLR 7-COAL FIRED	39	38
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JEFFERSON SMURFIT CORPORATION (Total Allocation)			39	38
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## MARATHON OIL CO ILLINOIS REFINING DIV

033808AAB	72111291055	BOILER #3 OIL,REF GAS FIRED	53	51
033808AAB	72111291056	BOILER #4 REF GAS,OIL FIRED	53	52
MARATHON OIL CO ILLINOIS REFINING DIV (Total Allocation)			106	103

## EXXON MOBIL

197800AAA	72110567002	AUX BOILER-REFINERY GAS	101	98
197800AAA	86010009043	STATIONARY GAS TURBINE	85	82
EXXON MOBIL (Total Allocation)			186	180

## WILLIAMS

179060ACR	73020087019	BOILER C - PULVERIZED DRY BOTTOM	377	366
WILLIAMS (Total Allocation)			377	366

## EQUISTAR

063800AAC	72100016013	BOILER # 1	40	39
063800AAC	72100016013	BOILER # 2	40	39
063800AAC	72100016014	#3 GAS FIRED BOILER	40	39
063800AAC	72100016016	#5 GAS FIRED BOILER	40	39
063800AAC	72100016017	#6 BOILER	40	38
EQUISTAR (Total Allocation)			200	194

## EQUISTAR

041804AAB	72121207108	BOILER NO 1	121	118
041804AAB	72121207109	BOILER NO 2	121	118
041804AAB	72121207110	BOILER NO 3	121	117
041804AAB	72121207111	BOILER NO 4	120	116
041804AAB	72121207112	BOILER NO 5	0	0
EQUISTAR (Total Allocation)			483	469

## TOSCO

119090AAA	72110633080	BOILER NO 15	40	38
119090AAA	72110633081	BOILER NO 16	40	39
119090AAA	72110633082	BOILER NO 17	80	78
TOSCO (Total Allocation)			160	155

## U S STEEL - SOUTH WORKS

031600ALZ	82010044013	NO. 6 BOILER,#5 POWER STATION (FUEL-NAT.GAS)	90	88
031600ALZ	82010044014	NO 1 BLR NG	90	87
U S STEEL - SOUTH WORKS (Total Allocation)			180	175

## UNIV OF ILL - ABBOTT POWER PLANT

019010ADA	82090027006	BOILER #7	86	83
UNIV OF ILL - ABBOTT POWER PLANT (Total Allocation)			86	83

## CITGO PETROLEUM CORPORATION

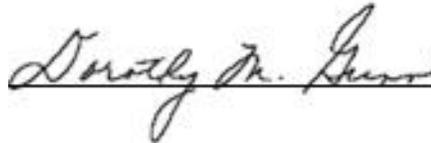
197090AAI	72110253037	BOILER 43-B-1	23	22
CITGO PETROLEUM CORPORATION (Total Allocation)			23	22

GRAND TOTAL			4,882	4,736
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(Source: Added at \_\_\_\_\_ Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 19th day of October 2000 by a vote of 7-0.



Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board