BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:	)	
	)	
NOx TRADING PROGRAM:	)	R06-22
AMENDMENTS TO 35 ILL.	)	(Rulemaking - Air)
ADM. CODE PART 217	)	

TABLE OF CONTENTS OF REGULATORY SUBMITTAL

Following is a Table of Contents of all pleadings and documents included with the proposed regulatory action:

1. Notice of Proposal

2. Appearance of Rachel Doctors, Assistant Counsel, for the Illinois Environmental Protection Agency

3. Director Douglas Scott's Proposal of Amendments

4. Motion for Waiver of Requirements

   a. Letter from Rachel Doctors, Assistant Counsel, Illinois EPA, to Virginia Yang, Deputy Counsel, Department of Natural Resources, dated December 21, 2005

5. Statement of Reasons

6. Exhibits to Statement of Reasons

   a. e-mail from John Paskevicz, U.S. EPA to Don Sutton, Manager of Permits, Illinois EPA, "final CO FCCU boiler policy," dated November 24, 2003.

   b. NOx Trading Program Subpart W: Schedule for the Fixed/Flex Approach and Roll-In for New Sources

   c. Outreach communications:

      i. Letter from Rachel Doctors, Assistant Counsel, Illinois EPA, to Jack Darrin, Sierra Club, dated December 16, 2005.

ii. Letter from Laurel Kroack, Bureau Chief, Bureau of Air, Illinois EPA, to affected sources, dated December 22, 2004.

d. Letter from Laurel L. Kroack, Chief, Bureau of Air, Illinois EPA to Katherine D. Hodge, Hodge Dwyer Zeaman, dated December 13, 2005

7. Synopsis of Testimony

8. Agency's Analysis of Economic and Budgetary Effects of the Proposed Amendments to 35 Ill. Admin. Code 217

9. Proposed Amendments to 35 Ill. Adm. Code 217:

The original and nine (9) copies

10. Documents Relied Upon (Note: An asterisk (*) indicates documents, **five copies of each**, that the Agency has provided for the Board in this proposal package.)

a. Illinois Environmental Protection Act (415 ILCS 5/et. seq.).

b. The Clean Air Act, as amended in 1990 (42 U.S.C. §7401 et seq.).

c. Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone: Final Rule, 63 *Fed. Reg.* 57356 (October 27, 1998).

d. Rule to Reduce Interstate Transport of Fine Particulate Matter and Ozone (Clean Air Interstate Rule); Revisions to Acid Rain Program; Revisions to the NOx SIP Call; Final Rule, 70 *Fed. Reg.* 25162 (May 12, 2005).

e. U. S. Bankruptcy Code (11 U.S.C. §§362, 363 and 541).

*f. Approval and Promulgation of Implementation Plans; Illinois NOx Regulations, Final Rule, 66 *Fed. Reg.* 56449, November 8, 2001.

g. Final Rule to Implement the 8-Hour Ozone National Ambient Air Quality Standard – Phase I, 69 *Fed. Reg.* 23951 at 40 CFR 51.905(f) (April 30, 2004).

h. *State of North Carolina v. EPA*, No. 05-1244 (D.C. Cir. 2005).

j. An Act concerning air pollution, P.A. #92-279 (August 7, 2007).

k. An Act concerning air pollution, P.A. #93-669 (March 19, 2004).

*l. Approval of Implementation Plans; Illinois NOx Regulations, Proposed Rule, 66 *Fed. Reg.* 3438 (June 28, 2001).

m. *State of West Virginia v. EPA*, No. 02-1181(D.C. Cir. 2004).

11. Incorporations by Reference

    a. 40 CFR 60 Appendix A, Methods 7, 7A, 7C, and 7E, 65 *Fed. Reg.* 61744, October 17, 2000.

    b. 40 CFR 60.13, 67 *Fed. Reg.* 43550, June 28, 2002.

    c. 40 CFR parts 72 and 75, 67 *Fed. Reg.* 40394, June 12, 2002.

    d. 40 CFR parts 72 and 75 correction, 67 *Fed. Reg.* 53503, August 16, 2002.

12. Proof of Service

13. Diskette containing Proposed Amendments to 35 Ill. Adm. Code 217, in WORD format.

RECEIVED
CLERK'S OFFICE

JAN 19 2006

STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:	)	
	)	
NOx TRADING PROGRAM:	)	**R06- 22**
AMENDMENTS TO 35 ILL.	)	**(Rulemaking - Air)**
ADM. CODE PART 217	)	

NOTICE

TO:

Dorothy Gunn, Clerk
Illinois Pollution Control Board
State of Illinois Center
100 West Randolph, Suite 11-500
Chicago, Illinois 60601

Matthew Dunn, Chief
Attorney General's Office
James R. Thompson Center
100 West Randolph, 12th Floor
Chicago, Illinois 60601

SEE ATTACHED SERVICE LIST

PLEASE TAKE NOTICE that I have today filed with the Office of the Pollution Control Board the REGULATORY PROPOSAL FOR NOx TRADING PROGRAM: AMENDMENTS TO 35 ILL. ADM. CODE PART 217, APPEARANCE and MOTION FOR WAIVER OF REQUIREMENTS of the Illinois Environmental Protection Agency a copy of which is herewith served upon you.

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: Rachel L. Doctors

Rachel L. Doctors
Assistant Counsel
Division of Legal Counsel

DATED: January 17, 2006
P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-5544

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD RECEIVED CLERK'S OFFICE

JAN 1 9 2006

STATE OF ILLINOIS
Pollution Control Board

IN THE MATTER OF:	)	
	)	
NO_x TRADING PROGRAM:	)	**R06- 22**
AMENDMENTS TO 35 ILL.	)	**(Rulemaking - Air)**
ADM. CODE PART 217	)	

APPEARANCE

The undersigned, as one of its attorneys, hereby enters an Appearance on behalf of the Illinois Environmental Protection Agency.

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

By: [signature]
Rachel L. Doctors
Assistant Counsel
Division of Legal Counsel

DATED: January 17, 2006
P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-5544

RECEIVED
CLERK'S OFFICE
JAN 1 9 2006
STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:	)	
	)	
THE NOx TRADING PROGRAM: AMENDMENTS TO 35 ILL. ADM. CODE PART 217	)	**R06- 22 (Rulemaking - Air)**
	)	

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY PROPOSAL OF AMENDMENTS

THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY ("Agency"), pursuant to 35 Ill. Adm. Code 102.202, moves that the Board accept for hearing the Agency's proposal for amendment of 35 Ill. Adm. Code Part 217. This regulatory proposal includes: 1) the proposed amendments; 2) the Statement of Reasons; 3) a statement regarding an economic impact study; and 4) an Appearance for the attorney representing the Illinois EPA.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

By: Douglas P. Scott
Douglas P. Scott
Director

DATED: December 23, 2005

P.O. Box 19276
Springfield, Illinois 62794-9276
217/782-3397

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:	)	
	)	
NO_x TRADING PROGRAM: AMENDMENTS TO 35 ILL. ADM. CODE PART 217	)))	**R06- 22 (Rulemaking - Air)**

MOTION FOR WAIVER OF REQUIREMENTS

NOW COMES Proponent, the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY (Illinois EPA), by its attorney, Rachel L. Doctors, pursuant to 35 Ill. Adm. Code 102.110, 102.402, and 101.500, and moves that the Illinois Pollution Control Board (Board) waive certain requirements, namely that the Illinois EPA submit an entire copy of the proposal to the Department of Natural Resources (DNR) and that the Illinois EPA submit the original and nine copies of all documents upon which it relied. In support of its Motion, the Illinois EPA states as follows:

1. Section 102.120 of the Board's procedural rules requires that a regulatory proposal be served on the Department of Natural Resources. On December 20, 2005, the Illinois EPA discussed the matter with Virginia Yang, Legal Counsel, who agreed that the Illinois EPA need not supply that office with a copy of the entire proposal, provided that her office be formally notified that a proposal has been made and where the proposal could be reviewed.

2. The Agency is required to submit copies of the documents incorporated by reference in the proposed amendments to Part 217. They are as follows:

   a. 40 CFR 60 Appendix A, Methods 7, 7A, 7C, and 7E, 65 *Fed. Reg.* 61744, October 17, 2000.

   b. 40 CFR 60.13, 67 *Fed. Reg.* 43550, June 28, 2002.

   c. 40 CFR parts 72 and 75, 67 *Fed. Reg.* 40394, June 12, 2002.

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 – (217) 782-3397
JAMES R. THOMPSON CENTER, 100 WEST RANDOLPH, SUITE 11-300, CHICAGO, IL 60601 – (312) 814-6026

ROD R. BLAGOJEVICH, GOVERNOR DOUGLAS P. SCOTT, DIRECTOR

217/782-5544

December 21, 2005

Virginia I. Yang
Deputy Legal Counsel for the
IL Department of Natural Resources
100 West Randolph 4th FLR
Chicago, IL 60601-3279

Dear Ms. Yang:

This letter is to confirm our e-mail on December 20, 2005, in which we discussed the proposal for amendments to Part 217 – Nitrogen Oxides Emissions that the Illinois EPA is developing for filing with the Pollution Control Board.

We are proposing amendments to Subparts A, T, U, and W of Part 217. These proposed amendments address changes to the Act and Code of Federal Regulations, and administrative issues that have arisen since the program was adopted in 2000. All three Subparts are part of the Illinois State Implementation Plan ("SIP") for ozone. Subparts T, U, and W regulate NO_x emissions from large cement kilns, industrial boilers and utilities boilers, respectively.

Since the federal NO_x Trading program was adopted in 2000 and implemented in 2004, the Illinois General Assembly has amended the provisions of Section 9.9 of the Act for NOx Trading to include authority for the Agency to sell certain allowances, to disburse sale proceeds to the Agency and certain sources, and clarify the compliance date for cement kilns, industrial boilers and utility boilers. USEPA has amended several test methods and monitoring provisions. In addition, several areas of the rules need to be updated to reflect changes in ownership of companies and changes in fixed allocations, to exempt CO boilers, to simplify the administration of the program, and to address issues that have arisen since the program was implemented.

In our conversation, you agreed that the Illinois EPA need not serve the Department of Natural Resources. The Agency will send you copies of the proposed amendments and the Statement of Reasons of the submittal at the time it is filed with the Board. The Agency will provide the Department with whatever other information or documents that you may need after you have reviewed the documents.

We sincerely appreciate your cooperation in this matter. If you have any questions, please do not hesitate to call me.

Sincerely,

Rachel Doctors
Assistant Counsel
Division of Legal Counsel

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:	)	
	)	
THE NOx TRADING PROGRAM:	)	R06- 22
AMENDMENTS TO 35 ILL.	)	(Rulemaking - Air)
ADM. CODE PART 217	)	
	)	

STATEMENT OF REASONS

The Illinois Environmental Protection Agency ("Illinois EPA" or "Agency") hereby submits this Statement of Reasons to the Illinois Pollution Control Board ("Board") pursuant to Sections 27 and 28 of the Environmental Protection Act ("Act"). See, 415 ILCS 5/27 and 28)(Document Relied Upon a)("DR a") and 35 Ill. Adm. Code 102.202(b), in support of the attached proposed amendments. Included in this proposal are amendments to 35 Ill. Adm. Code Part 217, Subparts A, T, U, and W. This proposal amends the most recent version of Part 217 as found on the Board's website.

I. ILLINOIS ENVIRONMENTAL PROTECTION AGENCY'S PROPOSAL

a. Background

Subparts T, U, and W of Part 217 were adopted by the Board on December 21, 2000, March 1, 2001, and April 5, 2001, respectively. All three Subparts received approval by the United States Environmental Protection Agency ("USEPA"), as part of the Illinois State Implementation Plan ("SIP") for ozone on November 8, 2001. See, 66 *Fed. Reg.* 56449 (DR f). Subparts T, U, and W regulate NO_x emissions from large cement kilns, industrial boilers and utilities boilers, respectively. Illinois was required to regulate these sources pursuant to the NO_x

SIP call. See, 63 *Fed. Reg.* 57356 (October 27, 1998) (DR c). Subparts U and W implement the NO_x Trading Program in Illinois to reduce ozone transport, meeting Illinois' obligations pursuant to Sections 110(a)(2) and 126 of the Clean Air Act. The on-going emission reductions also enable the two ozone nonattainment areas in Illinois make progress toward attaining the 8-hour ozone and PM 2.5 National Ambient Air Quality Standards ("NAAQS"). In addition, the NO_x Trading program is required under Phase I of the 8-hour ozone implementation rule to ensure a smooth transition to the 8-hour ozone NAAQS. See, 40 CFR 51.905(f) (DR g).

Since the federal NO_x Trading program was adopted in 2000 and implemented in 2004, USEPA has amended several applicable test methods and monitoring provisions. In addition, several areas of the rules need to be updated to reflect changes in ownership of companies and changes in fixed allocations, to simplify the administration of the program, and to address issues that have arisen since the program was implemented, e.g., adoption of procedures for the sale of certain NOx allowances. These changes are discussed below.

b. Update of Incorporations by Reference ("IR")

USEPA has updated several of the incorporations by reference listed in Section 217.104. Specifically, USEPA amended the procedures and test methods as set forth in 40 CFR 60, Appendix A, Methods 7, 7A, 7C, and 7E, as well as 40 CFR 60.13. See, 65 *Fed. Reg.* 61744 (October 17, 2000) (IR a) and 67 *Fed. Reg.* 43550 (June 28, 2002) (IR b). USEPA has also amended 40 CFR parts 72 and 75 on June 12, 2002 and provided corrections on August 16, 2002 as they pertain to the Acid Rain Program and the NO_x Trading Program. See, 67 *Fed. Reg.* 40394 (IR c) and 67 *Fed. Reg.* 53503 (IR d). The most pertinent amendment increased the threshold for emission units electing to use the low-mass emitter provisions for NO_x emissions monitoring. The threshold has been increased from 25 to 50 tons of NO_x per ozone season and from less than 50 tons of NO_x per year to less than 100 tons of NO_x per year. Emission units that elect low-mass emitter status may use alternative monitoring procedures in lieu of the continuous emissions monitoring. Larger low-mass emitter units, those greater than 25 tons per ozone season, are still required to participate in the NO_x Trading Program.

Note that on May 12, 2005, 40 CFR 72, 75 and 96 were amended by USEPA as part of its promulgation of the Clean Air Interstate rule (CAIR), which is currently under review. See *State of North Carolina v. EPA*, No. 05-1244 (D.C. Cir. filed July 8, 2005) (DR h).

c. Low-Emitter Exemption

In administering the NO_x Trading Program, it has become necessary to amend the low-emitter exemption procedures in Sections 217.454, 217.472, 217.754, 217.760, and 217.774 which allow certain emission units to be exempt from certain requirements of the NO_x Trading Program, namely the requirement to hold NO_x allowances. In addition to certain ownership requirements, only units that restrict their NO_x emissions during the control period to 25 tons or less and restrict the type of fuel used are eligible to elect low-emitter status. The Agency is clarifying the provisions that apply to non-EGUs subject to Subpart U to ensure that only units listed in Appendix E are eligible to elect low-emitter status. Also when the election is made, the unit is limited by permit to the lesser of 25 tons per ozone season or the number of allowances listed for that unit in Appendix E, unless it obtains a fixed allocation from another Appendix E unit. This clarification is necessary to ensure that the overall Subpart U budget is not reduced, which would lead to the fixed allocations specified in Appendix E being reduced, contrary to the intent of this Section.

In addition, interested parties requested flexibility for allowing new units at existing sources to become low-emitters. This required adding an option for these new units to obtain a permanent transfer of allowances from a unit listed in Appendix E. New sources are still prohibited from electing the low-emitter exemption. When an existing unit requests a permit limit greater than the fixed limit for that unit in Appendix E or a new unit at an existing source requests a low-emitter exemption, the owner or operator must obtain a permanent transfer of allowances from a unit listed in Appendix E. Every three years, the Agency will initiate a rulemaking to amend Appendices D and E to reflect any changes in the fixed allocations. The Agency is also adding a clarification to Section 217.468(c).

In Subpart W, the Agency is proposing to delete the low-emitter provisions. Under the federal NOx SIP Call Trading program, the Agency was not required to adopt provisions allowing units to elect low-emitter status. The Agency believes that because allocations of allowances occur three years prior to their use, the roll-in of new units five years after they commence operation, and the 10-year phase-in allocation methodology for existing EGUs, trying to administer a budget that could decrease added an unnecessary level of complexity. In addition, the current language allows units to apply for a maximum of 25 tons per control period, even if the unit has historically had lower emissions. The Agency is then required to reduce the budget by the permitted amount, rather than the amount that the unit has historically emitted. Hence, there is a possibility that existing units would be unfairly impacted because the overall budget available to them would be reduced by an order of magnitude above the actual emissions from units electing low-emitter status.

d. CO boiler exemption

Some fluid catalytic cracking units (FCCUs) use boilers to combust and thereby control carbon monoxide ("CO") and to produce steam for use at refineries. NO_x is produced by the regenerator at the FCCU and by the CO boiler and vents through a single stack. State rule development considered "industrial boilers" non-EGUs, but excluded FCCUs from calculation of the NOx budget and from required reductions. The federal NO_x SIP Call Trading program included a definition for boilers that would include these CO boilers. See, 40 CFR 96.2 (DR c). When the issue was raised by several states, USEPA noted that treatment of CO boilers in the development of the federal NOx SIP Call Trading program was inconsistent, leading to some states including these units in their program and others excluding them. Hence, USEPA gave each state the option of whether to include its large CO boilers. (Exhibit. a) The CO boilers in Illinois were not included in the State's NO_x SIP Call budget and were not intended by the State to be included in its NO_x Trading Program. The Board did not include these units in Appendix D or Appendix E. The Illinois EPA is proposing to clarify this position by adding an explicit exemption in Subpart U, Section 217.454 for CO boilers.

e. Chart of Dates

Several dates are unclear in Subpart W. First, the titles of the subsections in Section 217.764 for the NO_x allocations are confusing, as it is unclear whether the year referred to is the control period or the year in which the unit is given an allocation. The words "control period" are being added after the year and the language denoting the year of the program is being eliminated. Second, there appears to be a gap for when allowances from the New Source Set-asides (NSSAs) may be allocated. Dates that the Agency will allocate allowances to existing EGUs and new units are being clarified and corrected in Sections 217.764, 217.766 and 217.768.

Attached is a chart showing the status of the unit (new, existing), when that unit is eligible for allowances from the NSSA, when the unit will roll into the pool for existing units, and at what rate. (Exhibit b) Finally, the language requiring sources and the Agency to count 77 days is confusing and the date "July 16th" is being substituted in Sections 217.764 and 217.768.

f. Amendments to Section 9.9 of the Act

The Illinois General Assembly has amended Section 9.9 of the Act (Nitrogen oxides trading system) twice since the Board adopted Subparts T, U and W. On August 7, 2001, the Illinois General Assembly deleted the provisions in subsection (f) that prohibited enforcement of the NO_x trading provisions in Part 217 until States contiguous to Illinois and those in Region V had approved NO_x Trading Programs. See, P.A. #92-279 (DR j). On March 19, 2004, the Illinois General Assembly amended Section 9.9 of the Act by adding new subsection (d-5), (d-10), and (j) and amending subsections (e), (f), and (h) to give the Illinois EPA the authority to sell certain NO_x allowances, to adopt procedures for these sales, and specified a formula for determining the price. See, P.A. #93-669 (DR k). The Agency adopted procedures at 35 Ill. Adm. Code 273. The Agency is proposing amendments to part 217 to conform with the amendments to the Act and the new procedures adopted by the Agency at 35 Ill. Adm. Code 273.

g. Forfeiture provisions

Illinois EPA is proposing to address circumstances where allowances cannot be allocated by the Agency to a budget unit listed in Appendix E and, hence, cannot be used by an affected budget unit. Under specified circumstances, the Agency would have the ability to allocate these allowances to different units. The three circumstances where a budget unit listed in Appendix E is eligible for an allocation, but the Agency is unable to allocate to that particular unit or source are: 1) the owner or operator of the budget unit fails to appoint an account representative or open a NO_x allowance account with USEPA; 2) the source or unit is permanently shutdown, is not replaced and the permit has been revoked; and 3) the source or budget unit is sold and the former owner or operator fails to notify the Agency whether the NO_x allocation has been transferred to the new owner or operator or another source or unit subject to the requirements of Subpart U. The amendments would provide that the owner or operator affected by the first two circumstances must appoint an account representative, open account, or notify the Agency of the status of the allowances within two years of the date that the Agency is required to allocate allowances, or the allowances will be reallocated by the Agency to another affected budget unit. Under the third circumstance, the Agency will allocate the allowances to the new owner or operator of the unit or source.

Notwithstanding these provisions, the Agency acknowledges that if an owner or operator files bankruptcy or an order for relief has been entered in an involuntary bankruptcy case, the debtor, trustee, or other parties in interest may assert that the owner or operator's interest in the NOx allowances may be considered property of the estate pursuant to Section 541(a) of the Bankruptcy Code. See, 11 U.S.C. §541(a) (DR e). Although theses rules are drafted with the intent not to create a property interest, the Agency acknowledges that it is federal law and not state law that determine whether an interest of the debtor is property of the estate. Consequently, the Agency may not be able to take action to forfeit or transfer the NOx allowances without the Bankruptcy Court determining that the debtor's interest in the NOx allowances is not property of the estate or the Bankruptcy Court's entry of an order granting the Agency's motion for relief from the automatic stay pursuant to Section 362(d) of the Code. See, 11 U.S.C. § 362(d) (DR e). Upon the Bankruptcy Court's lifting the automatic stay or finding that the NOx allowances are not property of the estate, the Agency would take the necessary action in accordance with nonbankruptcy law to have the NOx allowances forfeited. Should the Bankruptcy Court determine the NOx allowances are property of the estate or it denies the Agency's request to lift the automatic stay, the Agency would not initiate the forfeiture proceeding until the bankruptcy case was either closed or dismissed. While the bankruptcy case is pending, the Agency would not forfeit or transfer the allowances to another party, absent an order issued by the Bankruptcy Court pursuant to Section 363 of the Code. See, 11 U.S.C. § 363 (DR e).

Illinois EPA is proposing procedures for notifying the owner or operator that their allocation has lapsed and giving the owner or operator 30 days to respond and prevent forfeiture. If the allowances are forfeited, the Agency will reallocate these allowances to one or more different Illinois budget units. Allowances forfeited because no account representative was appointed or account was opened or because the source or unit has permanently been shutdown will be allocated based on heat input to those non-EGUs that are **not** listed in Appendix E and that do not receive a fixed allocation. Such eligible units will be given an opportunity to submit an application requesting these allowances. To the extent that 100 or more allowances remain after the Agency has allocated them to eligible budget sources pursuant to proposed subsection (e)(1), the Agency will allocate the allowances to owners or operators of units listed in Appendix E on a pro-rata basis. Only whole allowances will be allocated, any allowances that remain after a pro-rata allocation will be retained and allocated in successive control periods. Where a unit or source has been sold, the allowances will be allocated to the source or unit under new ownership and the Agency will later propose a rulemaking to amend Appendix E to reflect the change in ownership and the change in the fixed-allocations.

h. Appendices

The Illinois EPA is proposing to update the listing of existing non-EGUs in Appendix D to reflect changes in ownership and permit unit numbers assigned to units. It is also proposing to add Flint Hills (which had previously been doing business as BP Amoco) and Bunge Milling, Inc., which were inadvertently excluded from the Appendices, and delete the reference to University of Illinois' boiler, as it was later determined that the unit should not be subject to the requirements of the NO_x Trading Program. (DR l). The Agency is waiting for a final allocation for Bunge Milling, Inc. from USEPA. Once USEPA promulgates a rule with allowances for this source, the Agency will propose to amend the rule to include this allocation. (Exhibit d). With respect to LTV Steel's boiler number 4B, the appendix has been amended to reflect the sale of the boiler to Chicago Coke for allocations beginning with the 2007 control period. In most cases, emission units and sources may undergo a change in owner, or name of owner and still receive allocations under Subpart U if the necessary requirements are met.

The Illinois EPA is proposing to update the listing of existing non-EGUs in Appendix E to reflect changes in ownership, name changes, and permit unit numbers assigned to affected units and any changes to their allocations. It is also proposing to add Flint Hills (which had previously been doing business as BP Amoco), and, to provide an allocation of 6 allowances. The allocations of A.E. Staley, Archer Daniels Midland, Corn Products International, Aventine Renewable Energy, and Trigen-Cinergy Solutions of Tuscola, have been reduced to allow for this allocation. This change was made with the consent of the companies involved from whom the allowances were taken.

The Illinois EPA is proposing several amendments to the Appendix F for EGUs. First, it is adding an abbreviation for Ameren Energy Generation Company ("AERG"). It is moving the allocations from the Collins units 1-4 to Powerton boiler 52, at the Company's request, as well as updating company names.

II. GEOGRAPHIC REGIONS AND SOURCES AFFECTED

The entire State of Illinois, specifically all cement kilns subject to Subpart T, non-EGUs subject to Subpart U, and EGUs subject to Subpart W, are affected by the proposed amendments to Part 217.

III. PURPOSE AND EFFECT OF THE PROPOSAL

The purpose of this proposal is to update Part 217 to reflect recent amendments made by USEPA to the Code of Federal Regulations (CFR) concerning several test methods and procedures and by the Illinois General Assembly to Section 9.9 of the Act concerning the sale of NO_x allowances and the repeal of the stay provisions. The proposal will also ensure that the NO_x budgets for both the EGUs and the non-EGUs are not reduced by low-emitters in a way that was not anticipated at the time the rules were originally adopted by the Board. Finally, the proposed clarifications to the dates and timing of allocations should simplify the administration of the NO_x Trading Program. This proposal does not change the emission limits or require new control devices on affected sources.

IV. TECHNICAL FEASIBILITY AND ECONOMIC REASONABLENESS

The amendments to Part 217 are being proposed to ensure consistency with amendments to Section 9.9 of the Act, including the authorization for the Illinois EPA to sell certain allowances and the removal of the stay provisions. The proposal updates the incorporations by reference consistent with amendments made by USEPA to the CFR, the allocation methodology and Appendices. Finally, the proposal simplifies the administration of the NO_x Trading Program by removing or clarifying the low-emitter requirements. The proposed amendments do not impose new emission limitations or require new control devices on affected sources. Therefore, an analysis of technical feasibility and economic reasonableness is not needed.

V. <u>COMMUNICATION WITH INTERESTED PARTIES</u>

These amendments are being proposed after representatives of industry and environmental groups have had an opportunity to review the proposed changes, discuss any issues and provide comments to the Illinois EPA. (Exhibit c). It is the Illinois EPA's understanding that except for the aforementioned issues of whether the LTV steel allowances for the 2004, 2005, and 2006 control periods should be transferred to Chicago Coke, and the final disposition of lapsed allocations there were no other significant issues identified by interested parties. The Illinois EPA is being represented by the Attorney General's Office with regards to the 2004 –2006 allowances.

VI. <u>THE ILLINOIS EPA'S PROPOSAL</u>

Throughout Part 217, the Illinois EPA is proposing to make grammatical corrections and use abbreviations where appropriate. What follows is a Section-by-Section summary of the more significant changes in Illinois EPA's proposal.

<u>35 Ill. Adm. Code 217: SUBPART A: GENERAL PROVISIONS</u>

<u>Section 217.101 Measurement Methods</u>

Illinois EPA is proposing to amend subsections (a) through (c) to replace the date that the method was amended with the statement that the method is incorporated by reference in Section 217.104. The proposed amendment would be consistent with how measurement methods are included in other parts of Subtitle B, e.g., Parts 212 and 214. In the future, if USEPA updates the applicable test methods and procedures, then only Section 217.104 will need to be amended.

Section 217.102 Abbreviations and Units

Illinois EPA is proposing to add the abbreviations for electronic data report ("EDR"), new source set-aside ("NSSA"), and Office of Regulatory Information Systems ("ORIS"). Illinois EPA proposes to move the abbreviations for nitrogen oxides ("NO_x"), so that it will be in alphabetical order.

Section 217.104 Incorporations by Reference

Illinois EPA is proposing to update the incorporations by reference in subsections (a), (d), (g) and (h).

PART 217: SUBPART T: CEMENT KILNS

Section 217.402 Control Requirements

Illinois EPA is proposing to amend subsections (a)(2)(A) through (a)(2)(D), and (a)(3)(A) to eliminate a duplicative reference to NO_x. Illinois EPA is proposing to amend subsection (b) to delete the now obsolete provision from Section 9.9(f) of the Act requiring that the provisions of Subpart T to be stayed if other contiguous States did not implement the requirements of the NO_x SIP call. Illinois EPA is proposing that subsection (b) be reserved rather than renumbering the

Section, as the Clean Air Act Permit Program (CAAPP) permits for sources subject to Subpart T reference several of the subsections in this Section. If the Section were to be renumbered, the references in the permits would no longer correspond to those in the amended regulation.

35 Ill. Adm. Code 217: SUBPART U: NOx CONTROL AND TRADING PROGRAM FOR SPECIFIED NOx GENERATING UNITS

Section 217.454 Applicability

Illinois EPA is proposing to amend subsections (c) and (d) to clarify the requirements for owners or operators electing the low-emitter exemption for an affected unit. To be eligible, the source must be listed in Appendix E and the unit must either be listed in Appendix E and receive a fixed allocation or must obtain a permanent transfer of allowances from a unit listed in Appendix E. The Agency will initiate a rulemaking to reflect the change in allocations. Illinois EPA is proposing two amendments to subsection (e). First, Illinois EPA is proposing to delete the language granting an implementation stay. Second, Illinois EPA is proposing to exempt boilers which combust and thereby control carbon monoxide emissions from FCCUs located at refineries.

Section 217.456 Compliance Requirements

Illinois EPA is proposing to amend subsection (b)(3), which currently requires owners or operators applying for a budget permit to specify either a source wide overdraft account or a specific account for each unit or both, by making the election voluntary. Illinois EPA is proposing to amend subsection (f)(6) to correct a reference to "EGUs" when the reference should be to non-EGUs or budget units.

Section 217.460 Subpart U NOx Trading Budget

Illinois EPA is proposing to amend subsections (a) and (d) to reflect a slight reduction in the number of NO_x allowances in the Subpart U trading budget due to the allocation for boilers at University of Illinois being removed from the budget and an allocation for LTV Steel being added to the budget. See, 65 *Fed. Reg.* 34382 at 34387 (June 28, 2001). (DR l).

Section 217.462 Methodology for Obtaining NOx Allocations

Illinois EPA is proposing to amend subsection (b) to clarify that account numbers are needed for both the budget unit account where the allowance is held and the unit account number to which the NO_x allowance is being transferred.

Illinois EPA is proposing to add subsections (d) and (e) to address circumstances where allowances cannot be allocated by the Agency and hence cannot be used by an affected budget unit, to allow the Agency to allocate the previously fixed allowances to different units. The three circumstances where a budget unit listed in Appendix E is eligible for an allocation but the Agency is unable to make an allocation to that particular unit or source are set forth in subsections (d)(1) through (d)(3). Specifically, the circumstances are when the owner or operator of the budget unit fails to appoint an account representative or open a NO_x allowance account; the source or unit is permanently shutdown, not replaced, and the permit has been withdrawn; or the source or budget unit is sold and the former owner or operator fails to notify the Agency whether the NO_x allocation has transferred to the new owner or operator or another source or unit that is subject to Subpart U. The owner or operator affected by one of the above circumstances must act within two years of the date that the Agency is required to allocate allowances, or the Agency will have the discretion to allocate the allowances as specified in subsection (e).

Illinois EPA is proposing to add subsection (e) to require notification to the owner or operator that their allocation has lapsed, and give the owner or operator 30 days to respond to prevent forfeiture. If the allowances are forfeited, subsections (e)(1) through (e)(3) describe how the Agency will allocate these allowances. Allowances forfeited because the owner or operator failed to appoint an account representative or open a NO_x allowance account, or the source or unit has been permanently shutdown, will be allocated based on heat input to those non-EGUs that are **not** listed in Appendix E and do not receive a fixed allocation, but are subject to Subpart U. To the extent that there are more than 100 NO_x allowances under subsection (e)(1) that have not been allocated, the Agency will allocate the remainder to owners or operators of units listed in Appendix E pro-rata, based on the allocation listed for the unit in Appendix E. Only whole allowances will be allocated, allowances that cannot be allocated pro-rata will be retained and allocated in successive control periods under subsection (e)(1). In subsection (e)(3), where the forfeiture is due to a unit or source being sold, the allowances will be allocated to the source or unit under new ownership and the Agency will later propose a rulemaking to amend Appendix E to reflect this change in the fixed allocations.

Notwithstanding these provisions, the Agency acknowledges that if an owner or operator files bankruptcy or an order for relief has been entered in an involuntary bankruptcy case, the debtor, trustee, or other parties in interest may assert that the owner or operator's interest in the NOx allowances may be considered property of the estate pursuant to Section 541(a) of the Bankruptcy Code. See, 11 U.S.C. §541(a). (DR e). Although theses rules are drafted with the intent not to create a property interest, the Agency acknowledges that it is federal law and not state law that determine whether an interest of the debtor is property of the estate.

Consequently, the Agency may not be able to take action to forfeit or transfer the NOx allowances without the Bankruptcy Court determining that the debtor's interest in the NOx allowances is not property of the estate or the Bankruptcy Court's entry of an order granting the Agency's motion for relief from the automatic stay pursuant to Section 362(d) of the Code. See, 11 U.S.C. §362(d). Upon the Bankruptcy Court's lifting the automatic stay or finding that the NOx allowances are not property of the estate, the Agency would take the necessary action in accordance with nonbankruptcy law to have the NOx allowances forfeited. Should the Bankruptcy Court determine the NOx allowances are property of the estate or it denies the Agency's request to lift the automatic stay, the Agency would not initiate the forfeiture proceeding until the bankruptcy case was either closed or dismissed. While the bankruptcy case is pending, the Agency would not forfeit or transfer the allowances to another party, absent an order issued by the Bankruptcy Court pursuant to Section 363 of the Code. See, 11 U.S.C. §363.

Section 217.464 Methodology for Determining NOx Allowances from the New Source Set-Aside

Illinois EPA is proposing to amend subsection (a) to clarify what is meant by the term "new" as those units are eligible to receive allowances from the NSSA as specified in Section 217.468. Illinois EPA is proposing to amend subsection (c)(4) to substitute 77 days with a date certain, July 16th. This is what was originally intended.

Section 217.466 NOx Allocations Procedures for Subpart U Budget Units

Illinois EPA is proposing to amend subsection (a) to take into account its proposal to address allowances that have been forfeited. Currently, the subsection provides that all allowances in Appendix E be allocated to a listed budget unit. Illinois EPA is proposing to amend subsection (c) to extend the date it is required to report NSSA allocations until May 1st. Illinois EPA is proposing to amend subsection (d) to delete the requirement that it allocate the excess allowances from NSSA by a date certain.

Section 217.468 New Source Set-Asides for "New" Budget Units

Illinois EPA is proposing to amend subsection (a) to delete the word "commercial" as it only applies to utility units (i.e., EGUs) which are regulated under Subpart W. Illinois EPA is proposing to amend subsection (e) to clarify that requests for allowances from the NSSA must include supporting data and calculations, and that heat input data must be submitted in an electronic format. Since these allowances must be purchased, it is also proposing to require that applications be submitted two weeks earlier to allow sufficient time for processing the applications and selling these allowances. Applications would be due before February 15 of the applicable control period. Illinois EPA is proposing to amend subsections (f) and (g) to delete the specific requirements for the sale of these allowances and instead reference the recently adopted Agency rules at 35 Ill. Adm. Code 273.

Section 217.472 Low-Emitter Exemption Requirements

Illinois EPA is proposing to amend the title of the exemptions from "Low-Emitter" to "Low-Emitter Exemption Requirements" to reduce confusion for a similar term used for the exemption from the monitoring requirements of "low-mass emitter." Illinois EPA is proposing to amend subsection (a)(2) to clarify that the NO_x Budget for Subpart U sources and units will be reduced by the NO_x limit included in the permit for such a unit. The reduction will be limited to the number of allowances specified in Appendix E for the unit plus any allowances that are permanently transferred to that unit from another Appendix E unit. In no case will a unit be allowed to have a permitted emission limit greater than 25 tons for the control period. Illinois EPA is proposing to amend subsection (a)(3) to clearly reference the subsections that define "potential" for the purposes of calculating "mass emissions" and "maximum potential hourly mass emissions." Illinois EPA is proposing to amend subsection (d) to clarify that only a source listed in Appendix E may elect low-emitter status, and that if the owner or operator has requested a permit emission limit greater than its allocation in Appendix E, the owner or operator must demonstrate that it has obtained a permanent allocation from another unit listed in Appendix E.

35 Ill. Adm. Code 217: SUBPART W: NOx TRADING PROGRAM FOR ELECTRICAL GENERATING UNITS

Section 217.754 Applicability

Illinois EPA is proposing to delete subsection (c), the low-emitter provisions as they apply to EGUs. Under the federal NOx SIP Call Trading program, the Agency was not required to adopt provisions allowing units to elect low-emitter status. Administering low-emitter provisions added an unnecessary level of complexity. The budget needs to be fixed when the Agency makes the allocations because new units roll in five years after they commence operation, and existing units receive allocations three years in advance based on a methodology that changes every year, but low-emitters reduce the budget in the year they elect low-emitter status. The Agency has already allocated allowances for that year. In addition, as the current language allows units to apply for a maximum of 25 tons per control period, even if the unit has historically had lower emissions, and requires the Agency to reduce the budget by the permitted amount. Hence, there is a possibility that existing units would be unfairly impacted because the overall budge available to them would be reduced by an order of magnitude above the actual emissions from units electing low-emitter status.

<u>Section 217.756 Compliance Requirements</u>

Illinois EPA is proposing to amend subsection (d)(3) to delete the obsolete statutory reference to a stay of programmatic requirements. Illinois EPA is proposing to amend subsection (g) to delete the reference to the low-emitter provisions, which are being removed.

<u>Section 217.760 NOx Trading Budget</u>

Illinois EPA is proposing to delete the language from subsections (b) and (c). Subsection (b) refers to low-emitters. Subsection (c) refers to changes that would have occurred as the result of a lawsuit concerning the growth factors used to determine Illinois' EGU NOx trading budget. As Illinois was not successful in this matter, no changes to the trading budget are anticipated. <u>See</u>, *State of West Virginia v. Environmental Protection Agency*, (D.C. Cir. No. 02-1181, April 9, 2004) (DR m). We are proposing to reserve these subsections, as subsection (a) is referred to in other Sections in this Subpart. Deleting these subsections would confuse the references used in permits that have already been issued.

<u>Section 217.764 NOx Allocations for Budget EGUs</u>

Illinois EPA is proposing to amend subsections (a) through (f) to clarify the timing of allocations, and correct a cross reference in subsection (c)(1). The current language is slightly ambiguous as it states: "In 2004..." when the intent is for that control period. Hence, in the heading of each subsection "in" has been struck and replaced with the phrase, "For control period...." In addition, the parenthetical statement of how many years as of a certain year that the program has been in effect "(or for the first three years of the program)" has also been struck as irrelevant. Illinois EPA is proposing to amend subsection (b)(2) to add "on or" to the phrase "before May 1, 2003," as there was a one day gap in the rules. Illinois EPA is proposing to amend subsection (b)(5) to correct the tense of the verb "commenced" to the present to reflect that the activity has not already occurred. It is also clarifying the control periods that a new budget will be eligible for allowances from the NSSA. It is proposing similar amendments to subsections (c) through (f). Illinois EPA is also proposing to delete the Board Note, as no additional delays in implementation occurred after the first 13 month extension until May 1, 2004. The cross reference in subsection (c)(1) to subsections (b)(2) and (b)(4) should be (c)(2) and (c)(4).

<u>Section 217.768 New Source Set-Asides for "New" Budget EGUs</u>

Illinois EPA is proposing to amend subsections (c)(3) and (j) to clarify that allowances will be allocated pro-rata based on heat input and to clarify that where whole allowances cannot be allocated they will be rolled over into the next year's NSSA and allocated on the same basis as other allowances from the NSSA. Illinois EPA is proposing to amend subsection (d) to clarify the type of information that an account representative needs to submit as part of a request for allowances from the NSSA. Illinois EPA is proposing to amend subsections (e)(3) and (e)(4) to clarify the heat input that will be used for determining the number of allowances that a new unit is eligible to request from the NSSA, as well as to clarify that maximum design heat input will only be used for one control period. Illinois EPA is proposing to amend subsections (f), (g), (h), and (k) to conform the requirements for applications, sale, notification, and payment for allowances from the NSSA with the amendments to Section 9.9 of the Act and the Agency's new procedural rules for the NO_x Trading Program as set forth in 35 Ill. Adm. Code 273. Illinois EPA is also proposing to delete the Board Note, as no additional delays in implementation occurred after the first 13 month extension until May 1, 2004.

Section 217.774 Opt-In Units

Illinois EPA is proposing to delete subsection (e)(5) for consistency with its proposal to delete the low-emitter exemption in Section 217.754(c).

217.Appendix D Non-Electrical Generating Units

The Illinois EPA is proposing to amend the listing of existing non-EGUs to reflect changes in ownership and permit unit numbers assigned to units. It is also proposing to add Flint Hills (which had previously been doing business as BP Amoco) and Bunge Milling, Inc., and delete the reference to University of Illinois' boiler.

217,Appendix E Large Non-Electrical Generating Units

The Illinois EPA is proposing to update the list of existing non-EGUs to reflect changes in ownership and permit numbers assigned to units and any changes to their allocations. It is proposing to add Flint Hills (which had previously been doing business as BP Amoco) and identify an allocation of six allowances. The allocations of A.E. Staley, Archer Daniels Midland, Corn Products International, Aventine Renewable Energy, and Trigen-Cinergy Solutions of Tuscola, have been reduced to provide for this change. It proposing to add a place holder for

Bunge Milling, Inc. and a Board note indicating that an allocation is expected from USEPA. The Illinois EPA is also proposing to delete the reference to University of Illinois' boiler. With respect to LTV Steel's boiler number 4B, the appendix has been amended to reflect the sale of the boiler to Chicago Coke for allocations beginning with the 2007 control period

217.Appendix F Allowances for Electrical Generating Units

The Illinois EPA is proposing several amendments to this Appendix. These amendments include adding an abbreviation for Ameren Energy Generation Company ("AERG"), moving the allocations from the Collins 1-4 units to Powerton Boiler 52, at the request of the owner, as well as name changes.

VI. CONCLUSION

For the reasons stated above, the Illinois EPA hereby submits this regulatory proposal and respectfully requests that the Board expeditiously adopts these rules for the State of Illinois.

Respectfully submitted,
ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: ____________________

Rachel L. Doctors
Assistant Counsel
Division of Legal Counsel

DATED: January 17, 2006

1021 North Grand Ave. East
P.O. Box 19276
Springfield, IL 62794-9276

Exhibits

From: <Paskevicz.John@epamail.epa.gov>
To: <jim.tichich@epa.state.oh.us>, <don.sutton@epa.state.il.us>, <rletterm@dem.state.in.us>
Date: Mon, Nov 24, 2003 8:52 AM
Subject: final CO FCCU boiler policy

I'm not certain when this FCCU-CO boiler policy will be sent out as a formal document from Clean Air Markets Division, so I'm including it here for your information. The main difference between this final version and the draft version you looked at is the reference to splitting the category. Call me if you have any questions.

John Paskevicz
Air and Radiation Division - R5
312-886-6084
----- Forwarded by John Paskevicz/R5/USEPA/US on 11/24/2003 08:27 AM -----

Beth Murray
11/19/2003 09:15 AM
To: John Paskevicz/R5/USEPA/US@EPA
cc:
Subject: final CO FCCU boiler policy

----- Forwarded by Beth Murray/DC/USEPA/US on 11/19/2003 10:14 AM -----

Dwight Alpern
11/13/2003 03:11 PM
To: Mary Shellabarger/DC/USEPA/US@EPA, Beth Murray/DC/USEPA/US@EPA, Carol Weisner/DC/USEPA/US@EPA
cc:
Subject: final CO FCCU boiler policy

(See attached file: cofccuboilernoxsipcallpolicy.wpd)

CC: <Bahr.Ryan@epamail.epa.gov>, <Marquardt.Steve@epamail.epa.gov>, <Bortzer.Jay@epamail.epa.gov>

NOx SIP Call Applicability: Carbon Monoxide (CO) boilers combusting CO from the Fluid Catalytic Cracking Units (FCCUs)

BACKGROUND

General

- Some FCCUs use CO boilers (FCCU-CO boilers) to combust and thereby control CO and to produce steam for use at the refinery.
- NOx is produced by the regenerator at the FCCU and by the CO boiler and vents through a single stack.

NOx SIP Call treatment of FCCU-CO boilers

- The NOx SIP Call includes "industrial boilers" as large non-electric generating units (non-EGUs), but excludes FCCUs, from calculation of required highly cost-effective reductions (63 FR 57356, 57416, Oct. 27, 1998).
- In the NOx SIP Call preamble and rule, "FCCU" is not defined, but the definition of "boiler" (40 CFR 96.2) covers FCCU-CO boilers.
- Technical support documents developed for NOx SIP Call final rule (but not developed for NOx SIP Call proposed rules) describe "FCCU" as including the process heater and the regenerator and treat the FCCU-CO boiler as a separate source.
- The NOx SIP Call large non-EGU inventory includes some, but not all, FCCU-CO boilers.
- Part 60, Subpart J (40 CFR 60.101(m)) arguably defines "FCCU" to include the FCCU-CO boiler (i.e., as "regenerator equipment for controlling air pollutant emissions and for heat recovery").
- Treatment of FCCU-CO boilers is inconsistent among States, with some States including them in the SIP NOx trading program as non-EGUs and some States excluding them from the SIP NOx trading program.

EPA'S POSITION

EPA intends to allow each State with one or more FCCU-CO boilers the option of determining whether all its large FCCU-CO boilers are covered, or all its large FCCU-CO boilers are not covered, by the SIP NOx trading program. EPA does not intend to allow States to split the category by including some, but not all, large FCCU-CO boilers in the trading program.

- EPA's position is based on the following circumstances:
  a. The NOx SIP Call includes industrial boilers (as large non-EGUs), but excludes FCCUs, from calculation of required highly cost-effective reductions.
  b. The NOx SIP Call definition of "boiler" covers FCCU-CO boilers.
  c. Technical support documents for the NOx SIP Call final rule (but not included for NOx SIP Call proposed rules) define "FCCU" as not including the FCCU-CO boiler.
  d. The 40 CFR Part 60 definition of "FCCU," which arguably includes FCCU-CO boilers, created confusion over whether FCCU-CO boilers were included as non-EGUs.

e. Treatment of FCCU-CO boilers in large non-EGU inventories and SIP NOx trading programs is inconsistent among States.

- Because of these circumstances, EPA believes each State should have the option of deciding whether to include all large FCCU-CO boilers in, or exclude all large FCCU-CO boilers from, the SIP NOx trading program; EPA intends not to disapprove SIPs simply because they exclude all large FCCU-CO boilers in the State from the trading program.
- EPA recommends that a State may choose to revise its SIP to include or exclude all large FCCU-CO boilers in that State as follows:

  a. To exclude an FCCU-CO boiler currently in, and allocated allowances under, the SIP NOx trading program,[1]

    1. Take back (or do not take action to provide) all allowances allocated to such boiler and remove such allowances from the trading program.
    2. When the allowance allocations for non-EGUs are updated,

      i. Determine the controlled emissions calculated for such boiler by examining the 2007 control case portion (which reflects 60% reduction of 2007 uncontrolled emissions) of the NOx SIP Call emissions inventory.

      ii. Decrease the total tons, and thus the total amount of allowances, for non-EGUs in the NOx trading program by the amount from step a.2.i above.

  b. To include an FCCU-CO boiler currently not in, and not allocated allowances under, the SIP NOx trading program,

    1. Allocate to such boiler an amount of allowances calculated using the same procedures that were used to allocate allowances to the other non-EGUs.
    2. When the allowance allocations for non-EGUs are updated,

      i. Calculate the NOx emissions remaining at the boiler after the NOx SIP Call reduction (a 60% reduction of 2007 uncontrolled emissions) by using the 2007 base case emissions inventory.

      ii. Increase the total tons, and thus, the total amount of allowances, in the NOx trading program tons by the amount from step b.2.i above.

- For questions, contact Dwight Alpern (202-564-9151) or Doug Grano (919-541-3292).

---

[1] If an FCCU-CO boiler is currently in the SIP NOx trading program but is not allocated allowances because the unit is not in the 2007 control case in the NOx SIP Call emissions inventory, the unit may be excluded from the program by continuing not to allocate allowances and, when allowance allocations are updated, continuing to exclude the unit's emissions from the 2007 control case.

Illinois EPA Exhibit No. b

NOx Trading Program Subpart W:
Schedule for the Fixed/Flex Approach and Roll-In for New Sources

Calendar Year	Control Period	Existing EGU Allowance	New EGU* 1/95-5/1/03	New EGU* 5/2/03-5/1/04	New EGU* 5/2/04-5/1/05	New EGU* 5/2/05-5/1/06	New EGU* 5/2/06-5/1/07	New EGU* 5/2/07-5/1/08	New EGU* 5/2/08-5/1/09	New EGU* 5/2/09-5/1/10	New EGU* 5/2/10-5/1/11
	2004	App. F	NSSA	NSSA	NSSA	----------	----------	----------	----------	----------	----------
	2005	App. F	NSSA	NSSA	NSSA	NSSA	----------	----------	----------	----------	----------
	2006	App. F	NSSA	NSSA	NSSA	NSSA	NSSA	----------	----------	----------	----------
2004	2007	F – 80% for 2 years	Semi-Rolling	NSSA	NSSA	NSSA	NSSA	NSSA	----------	----------	----------
2005	2008	F – 80% for 2 years	Semi-Rolling	Semi-Rolling	NSSA	NSSA	NSSA	NSSA	NSSA	----------	----------
2006	2009	F – 50% for 2 years	Semi-Rolling	Semi-Rolling	Semi-Rolling	NSSA	NSSA	NSSA	NSSA	NSSA	----------
2007	2010	F – 50% for 2 years	Semi-Rolling	Semi-Rolling	Semi-Rolling	Semi-Rolling	NSSA	NSSA	NSSA	NSSA	NSSA
2008	2011	HI	HI	HI	HI	HI	HI	NSSA	NSSA	NSSA	NSSA
2009	2012	HI	HI	HI	HI	HI	HI	HI	NSSA	NSSA	NSSA
2010	2013	HI	HI	HI	HI	HI	HI	HI	HI	NSSA	NSSA
2011	2014	HI	HI	HI	HI	HI	HI	HI	HI	HI	NSSA
2012	2015	HI	HI	HI	HI	HI	HI	HI	HI	HI	HI

* commences commercial operation
NSSA = New Source Set Aside
HI = Heat Input

Illinois EPA Exhibit No. C(i)

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 – (217) 782-3397
JAMES R. THOMPSON CENTER, 100 WEST RANDOLPH, SUITE 11-300, CHICAGO, IL 60601 – (312) 814-6026

ROD R. BLAGOJEVICH, GOVERNOR DOUGLAS P. SCOTT, DIRECTOR

217/524-3337

December 16, 2005

Mr. Jack Darrin
Sierra Club
200 N. Michigan Avenue, Ste. 505
Chicago, IL 60618

Re: Proposal for Amendments to Part 217

Dear Mr. Darrin:

The Illinois EPA has developed a proposal to amend Part 217 that it is planning on filing within the next couple of weeks with the Illinois Pollution Control Board ("Board") for hearing and adoption. Enclosed is a copy of the Proposed Rule. There may be some minor edits before the proposal is filed.

If you have any comments or questions, please contact me at the number above.

Sincerely,

Rachel L. Doctors

Rachel L. Doctors
Assistant Counsel
Division of Legal Counsel

Illinois EPA Exhibit No. C(i i)

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 – (217) 782-3397
JAMES R. THOMPSON CENTER, 100 WEST RANDOLPH, SUITE 11-300, CHICAGO, IL 60601 – (312) 814-6026

ROD R. BLAGOJEVICH, GOVERNOR   DOUGLAS P. SCOTT, DIRECTOR

(217) 524-7636

December 22, 2004

Dear:

Two weeks ago, we shared a draft of our proposal to sell certain allowances and indicated that we would also be filing a proposal with the Illinois Pollution Control Board to amend the rules for the NOx Trading Program (35 Ill. Adm. Code 217), to reflect the amendments to Section 9.9 of the Act, update incorporations by references, clarify the low-emitter provisions for industrial boilers and eliminate these provisions for utility boilers, and update the Appendices. We have also included new provisions to Subpart U (non-utility boilers) to address abandoned allowances in Section 217.462(d) and (e).

A copy of the proposal is enclosed. Please share a copy of this proposal with your members and check the identification of their facility and emission units in the Appendices. We will be scheduling a meeting in mid-January to discuss these provisions. However, it would be helpful to hear any concerns or suggestions you may have prior to the meeting. Please contact Rachel Doctors at 217/524.3337 or rachel.doctors@epa.state.il.us by January 7, 2005, with any comments.

Sincerely,

Laurel Kroack, Manager
Division of Air Pollution Control
Bureau of Air

Illinois EPA Exhibit No. d Rachel K D05-082

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 – (217) 782-3397
JAMES R. THOMPSON CENTER, 100 WEST RANDOLPH, SUITE 11-300, CHICAGO, IL 60601 – (312) 814-6026

ROD R. BLAGOJEVICH, GOVERNOR   DOUGLAS P. SCOTT, DIRECTOR

(217) 782-3397
(217) 782-9143 TDD

December 13, 2005

Ms. Katherine D. Hodge
Hodge Dwyer Zeaman
3150 Roland Avenue
Springfield, Illinois 62705-5776

Dear Ms. Hodge:

Director Scott has asked that I respond to your letter of September 20, 2005. Bureau of Air staff has reviewed your letter requesting an applicability determination as to whether the circulating fluidized bed, coal-fired boiler ("CFB Boiler") in Danville (ID Number 183020ABT) owned and operated by Bunge Milling, Inc. ("Bunge"), is subject to the Illinois NOx trading regulations under the NOx Budget Trading Program. From the information provided in the letter and a review of the air regulations at 35 IAC Part 217, Bunge is not currently covered by the NOx Budget Trading Program.

According to Bunge, the CFB Boiler commenced operation in 1986, has a maximum design heat input of 322.5 mmBtu/hr, and serves one generator having a nameplate capacity of 20 MWe, which has produced some electricity for sale. Illinois' NOx Budget Trading Program regulations are set forth in Subparts A (general provisions), U (for non-EGUs), and W (for EGUs) of Part 217.

Under Section 217.454, Subpart U applies to a unit with maximum design heat input of greater than 250 mmBtu/hr if (1) the unit is listed in Appendix E of the Subpart or (2) the unit is not listed and serves a generator producing electricity for sale and having a nameplate capacity of 25 MWe or less and the potential to use no more than 50 percent of the potential electrical output capacity of the unit. There are some other categories of units subject to Subpart U listed as well, but they are not relevant to the evaluation of Bunge's status.

Section 217.454(a)(2)(B) provides that 50 percent of potential electrical output capacity is equal to the maximum design heat input multiplied by 0.0488 MWe/mmBtu. The CFB Boiler is not listed in Appendix E, and 50% of its potential electrical output capacity, based on information provided by Bunge, equals 15.738 MWe – thus the nameplate capacity of the associated generator is greater than 50 percent of the potential capacity. Consequently, the CFB Boiler is not subject to Subpart U.

Under Section 217.754, Subpart W applies to a unit with a maximum design heat input greater than 250 mmBtu/hr, commencing operation on or after January 1, 1999, and serving a generator having a nameplate capacity of 25 MWe or less and having the potential to use more than 50% of the potential electrical output capacity of the unit. There is another category of units subject to Subpart W listed as well, but that category is not relevant to the evaluation of Bunge's situation.

Because the CFB Boiler commenced operation prior to 1999, it is not subject to Subpart W. Thus, since the unit is not currently subject to either Subpart U or Subpart W, the CFB Boiler is not currently subject to the NOx Budget Trading Program.

However, this exclusion of Bunge from the program was inadvertent and the Illinois EPA believes that Bunge's boiler should be a listed non-EGU in Appendices D and E of Part 217. As such, the Illinois EPA plans to correct this exclusion in the upcoming amendments to Part 217. To accomplish this, the Illinois EPA will work with Bunge and will request that U.S. EPA add the appropriate number of NOx allowances for Bunge's CFB Boiler to the statewide NOx budget for non-EGUs. Once this is accomplished, the Illinois EPA will be able to allocate NOx allowances to Bunge. Until such time as the current Illinois NOx trading regulations are amended to include Bunge in Appendices D and E of Part 217 and U.S. EPA increases Illinois' NOx budget to include the CFB Boiler, Bunge will continue to be exempt from the NOx Budget Trading Program.

We appreciate you bringing this situation to our attention and will work with you to resolve this issue.

Sincerely,

Laurel L. Kroack

Laurel L. Kroack
Chief, Bureau of Air

cc: Dwight C. Alpern, USEPA
John Mooney, USEPA

g:\kk\Bloomberg\Hodge - Bunge-11-04

Synopsis of Testimony

David Bloomberg, Manager of the Compliance Unit within the B[illegible] the Agency's lead contact for NOx trading, will testify about the technical aspects of the changes to the regulations. In addition to a general overview, Mr. Bloomberg will address the following:

- Elimination of low-emitter status for EGUs and changes to the low emitter provisions for non-EGUs.

- Creation of a mechanism by which unused NOx allowances can be given to sources that need them. This addition to the regulation will also clarify how the Agency will determine the proper allocation of allowances in cases where the sale of a source has taken place.

- Modifications to the regulations to reference the Section 273, the Agency's rule covering the methodology for sale of certain types of allowances.

Agency Analysis of Economic and Budgetary Effects of Proposed Rulemaking

Agency: Illinois Pollution Control Board

Part/Title: Nitrogen Oxides Emissions (35 Ill. Adm. Code Part 217)

Illinois Register Citation: ______________________________

Please attempt to provide as dollar-specific responses as possible and feel free to add any relevant explanation.

1. Anticipated effect on State expenditures and revenues.

   (a) Current cost to the agency for this program/activity. $ 175,000 per year (approximately)

   (b) If this rulemaking will result in an increase or decrease in cost, specify the fiscal year in which this change will first occur and the dollar amount of the effect.

   N/A

   (c) Indicate the funding source, including Fund and appropriation lines, for this program/activity. Clean Air Act Permit Program Fund (CAAPP), and the NO_x Trading System Fund.

   (d) If an increase or decrease in the costs of another State agency is anticipated, specify the fiscal year in which this change will first occur and the estimated dollar amount of the effect.

   N/A

   (e) Will this rulemaking have any effect on State revenues or expenditures not already indicated above?

   No

2. Economic effect on persons affected by the rulemaking:

   (a) Indicate the economic effect and specify the persons affected:

   Positive ___ Negative ____ No effect _X___

   Persons affected: ____N/A____

   Dollar amount per person: ___N/A____

   Total statewide cost: _____N/A_____

(b) If an economic effect is predicted, please briefly describe how the effect will occur. ___N/A___

(c) Will the rulemaking have an indirect effect that may result in increased administrative costs? Will there be any change in requirements such as filing, documentation, reporting or completion of forms?

The rulemaking should have no indirect effect that may result in increased administrative costs.

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JAN 19 2006
STATE OF ILLINOIS
Pollution Control Board

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

SUBPART B: NEW FUEL COMBUSTION EMISSION SOURCES

SUBPART C: EXISTING FUEL COMBUSTION EMISSION SOURCES

SUBPART K: PROCESS EMISSION SOURCES

SUBPART O: CHEMICAL MANUFACTURE

SUBPART T: CEMENT KILNS

SUBPART U: NO_x CONTROL AND TRADING PROGRAM FOR SPECIFIED NO_x GENERATING UNITS

Section

SUBPART V: ELECTRIC POWER GENERATION

Section

SUBPART W: NO_x TRADING PROGRAM FOR ELECTRICAL GENERATING UNITS

Section

SUBPART X: VOLUNTARY NO_x EMISSIONS REDUCTION PROGRAM

Section

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

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 25 Ill. Reg. 128, effective December 26, 2000; amended in R01-11 at 25 Ill. Reg. 4597, effective March 15, 2001; amended in R01-16 and R01-17 at 25 Ill. Reg.5914, effective April 17, 2001; amended in R06-_____ at _____ Ill. Reg. ________, effective ___________________.

SUBPART A: GENERAL PROVISIONS

Section 217.101 Measurement Methods

Measurement of nitrogen oxides shall be according to:

a) The phenol disulfonic acid procedures~~method~~, 40 CFR 60, Appendix A, Method 7, as incorporated by reference in Section 217.104 of this Subpart~~(1999)~~;

b) Continuous emissions monitoring pursuant to 40 CFR 75, as incorporated by reference in Section 217.104 of this Subpart ~~(1999)~~; and

c) Determination of Nitrogen Oxides Emissions from Stationary Sources (Instrumental Analyzer Procedure), 40 CFR 60, Appendix A, Method 7E, as incorporated by reference in Section 217.104 of this Subpart ~~(1999)~~.

(Source: Amended at ____ Ill. Reg. _______, effective ____________________)

Section 217.102 Abbreviations and Units

a) The following abbreviations are used in this Part:

btu	British thermal unit (60°F)
EDR	electronic data report
EGU	Electrical Generating Unit
kg	kilogram
kg/MW-hr	kilograms per megawatt-hour, usually used as an hourly emission rate
lb	pound
~~NO_x~~	~~Nitrogen Oxides~~
lbs/mmbtu	pounds per million btu, usually used as an hourly emission rate
Mg	megagram or metric tonne
mmbtu	million British thermal units
mmbtu/hr	million British thermal units per hour
MWe	megawatt of electricity
MW	megawatt; one million watts
MW-hr	megawatt-hour
NSSA	New Source Set-Aside
NO_x	Nitrogen Oxides
peoc	potential electrical output capacity
ppm	parts per million
ppmv	parts per million by volume
T	English ton

b) The following conversion factors have been used in this Part:

English	Metric
2.205 lb	1 kg
1 T	0.907 Mg
1 lb/T	0.500 kg/Mg

Mmbtu/hr 0.293 MW
1 lb/mmbtu 1.548 kg/MW-hr

(Source: Amended at ____ Ill. Reg. _______, effective _____________________)

Section 217.104 Incorporations by Reference

The following materials are incorporated by reference. These incorporations do not include any later amendments or editions.

a) The phenol disulfonic acid procedures~~method~~, as published in 40 CFR 60, Appendix A, Method 7 (2000)~~(1999)~~;

b) 40 CFR 96, subparts B, D, G, and H (1999);

c) 40 CFR 96.1 through 96.3, 96.5 through 96.7, 96.50 through 96.54, 96.55 (a) & (b), 96.56 and 96.57 (1999);

d) 40 CFR 72, 75 & 76 (2002)~~(1999)~~;

e) Alternative Control Techniques Document---- NO_x Emissions from Cement Manufacturing, EPA-453/R-94-004, U. S. Environmental Protection Agency-Office of Air Quality Planning and Standards, Research Triangle Park, N. C. 27711, March 1994;

f) Section 11.6, Portland Cement Manufacturing, AP-42 Compilation of Air Emission Factors, Volume 1: Stationary Point and Area Sources, U.S. Environmental Protection Agency-Office of Air Quality Planning and Standards, Research Triangle Park, N. C. 27711, revised January 1995;

g) 40 CFR 60.13 (2002)~~(1999)~~; and

h) 40 CFR 60, Appendix A, Methods 7, 7A, 7C, 7D, and 7E (2000)~~(1999)~~.

(Source: Amended at ____ Ill. Reg. _______, effective _______________________)

SUBPART T: CEMENT KILNS

Section 217.402 Control Requirements

a) After May 30, 2004, an owner or operator of any cement kiln subject to the requirements of this Subpart shall not operate the kiln during the initial control period or any subsequent control period, unless the owner or operator complies with subsection (a)(1), (a)(2), (a)(3), (a)(5) or (a)(6) of this Section for kilns that commenced operation prior to January 1, 1996, or subsection (a)(4) or (a)(6) of this Section for kilns that commenced operation on or after January 1, 1996.

1) The kiln is operated with a low-NO_x burner or a mid-kiln firing system;

2) The kiln shall not exceed the applicable NO_x emission limitation in pounds per ton of clinker (lb/T), expressed in the rates listed below:

A) Long dry kilns -- 5.1 lb ~~NOx~~/T of clinker;

B) Long wet kilns -- 6.0 lb ~~NOx~~ /T of clinker;

C) Preheater kilns -- 3.8 lb ~~NOx~~/T of clinker; or

D) Preheater/precalciner kilns -- 2.8 lb ~~NOx~~/T of clinker.

3) The kiln achieves a 30 percent or greater reduction from its uncontrolled baseline, established as set forth in this subsection ~~(a)(3)~~, and complies with the following:

A) Uncontrolled baseline emissions shall be determined using the following equation:

$$UBE = \frac{[EF \times SPR]}{2000 \text{ lbs } \cancel{NOx} \text{ /T}}$$

Where:

UBE = Uncontrolled Baseline NO_x emissions expressed in tons of NO_x per control period;

EF = Emissions factor, expressed in lbs of NO_x per ton of clinker produced per control period, based on one of the methods in subsection (a)(3)(B) of this Section; and

SPR = Seasonal production rate, expressed in tons of clinker produced per control period, using the average of the two highest control period operating rates from the previous three-year period at the time the application for the permit with federally enforceable conditions is submitted to the Agency pursuant to subsection (a)(3)(C) of this Section.

B) Emissions factors shall be determined using one of the following methods:

i) The average of the emission factors for the type of kiln from the Compilation of Air Pollutant Emission Factors (AP-42) and the Alternative Control Techniques Document -- NO_x Emissions from Cement Manufacturing, as incorporated by reference in Section 217.104 of this Part;

ii) The site-specific emission factor developed from representative emissions testing, pursuant to 40 CFR 60, Appendix A, Method 7, 7A, 7C, 7D, or 7E, incorporated by reference in Section 217.104 of this Part, based on a range of typical operating conditions. The owner or operator must establish that these operating conditions are representative, subject to approval by the Agency, and must certify that the emissions testing is being conducted under representative conditions; or

iii) An alternate method for establishing the emissions factors, when submitted with supporting data to substantiate such emissions factors and approved by the Agency as set forth in subsection (a)(3)(C) of this Section.

C) The owner or operator must submit an emission reduction plan to the Agency and obtain approval of that plan by the Agency. Such plan shall be effective only when contained as federally enforceable conditions in a permit. Such plan shall include any alternate procedures for monitoring, testing, reporting, or recordkeeping approved by the Agency, or other provisions as appropriate.

4) Any kiln subject to this Subpart that commenced operation on or after January 1, 1996, must meet the more stringent of the requirements of this Subpart or other CAA requirements, or rules promulgated thereunder, applicable to kilns. If a kiln is required to comply with a more stringent requirement pursuant to the CAA, and chooses to do so in lieu of complying with this Subpart, the owner or operator must submit an emissions reduction plan that demonstrates that compliance with the CAA requirement results in emissions reductions that are equal to or exceed the requirements of this Section and obtain a permit containing federally enforceable conditions addressing such CAA requirement.

5) The owner or operator obtains an alternate emissions standard for operating the kiln pursuant to Section 28.1 of the Act [415 ILCS 5/28.1],

and in accordance with 35 Ill. Adm. Code 104, Subpart D, provisions for adjusted standards. An adjusted standard or alternate emissions standard with an alternate compliance schedule shall be granted by the Board to the extent consistent with federal law. Such alternate shall be effective only when included as a federally enforceable condition in a permit approved by USEPA or approved as a SIP revision. The adjusted standard shall include any alternate procedures for control, compliance, monitoring, operation, testing, reporting, or recordkeeping that are appropriate. In addition, the owner or operator must demonstrate, as justification for the adjusted standard, that the control requirements contained in this Subpart, as they apply to cement kilns, meet one or more of the following criteria:

A) Unreasonable cost of control resulting from plant, age, location or basic process design;

B) Physical impossibility of installing necessary control equipment; or

C) Other factors specific to the cement kiln that support an alternate emissions standard.

6) The owner or operator obtains approval by the Agency and USEPA to allow the kiln to participate in the federal NO_x Trading Program. Such participation will be effective upon issuance of a permit containing all necessary federally enforceable permit conditions addressing the kiln's participation in the federal NO_x Trading Program pursuant to 40 CFR 96 and the Illinois NO_x Trading Program regulations at 35 Ill. Adm. Code Part 217. The owner or operator is not subject to the requirements of this Subpart for the duration of its participation in the NO_x Trading Program, except for the requirement to submit the initial compliance report pursuant to Section 217.408(a) of this Subpart.

b) <u>(reserved)</u>~~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 NOx SIP Call (63 Fed. Reg. 57,355 (October 27, 1998)) that are located in USEPA Region V or that are contiguous to Illinois have adopted regulations to implement NOx trading programs and other required reductions of NOx emissions pursuant to the NOx 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 for such other states.*~~ ~~[415 ILCS 5/9.9(f)]~~

(Source: Amended at ____ Ill. Reg. ______, effective ____________________)

SUBPART U: NO_x CONTROL AND TRADING PROGRAM FOR SPECIFIED NO_x GENERATING UNITS

Section 217.454 Applicability

a) Except as provided in subsection (e) of this Section, this~~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 in Appendix E of this Part~~Subpart~~, irrespective of any subsequent changes in ownership, unit designation, or name of the unit; or

2) A unit not listed in Appendix E of this Part~~Subpart~~ that:

A) At no time serves a generator producing electricity for sale;

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 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;

C) Is part of any source, as that term is defined in 35 Ill. Adm. Code Section 211.6130, listed in Appendix E of this Part; or

D) Is a unit subject to Subpart W of this Part (excluding any unit listed in Appendix F of this Part, regardless of any change in ownership or any change of operator), and the owner or operator makes a permanent election, at the time of applying for a budget permit pursuant to this Part, to subject the unit to the requirements of this Subpart rather than Subpart W of this Part. Any unit for which such an election is made will not receive an allocation from the Subpart U or Subpart W NO_x Trading Budget.

b) Those units that meet the above criteria and are subject to the NO_x 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 source ~~budget unit subject to the requirements of subsection (a) of this Section and~~ listed in Appendix E of this Part may elect low-emitter status for a budget unit subject to the requirements of subsection (a) of this Section by obtaining a permit with federally enforceable conditions that meet the requirements of Section 217.472(a). Starting with the effective date of such permit, the unit shall be subject only to the requirements of Section 217.472. In addition, for budget units not listed in Appendix E:

1) The owner or operator shall obtain a permanent transfer of NO_x allowances in an amount that equals or exceeds the permit emission limit for NO_x during the control period from a unit listed in Appendix E of this Part to an unlisted unit. In no case will a unit electing low-emitter status have a permit limit greater than 25 tons of NOx per control period. The transfer will not be effective until the owner or operator follows the procedures in Section 217.462(b) of this Subpart.

2) The Agency shall initiate a rulemaking to amend Appendices D, E, and G of this Part, every three years to reflect any changes to the listed NO_x allocations, if such changes have occurred.

d) The owner or operator of any budget unit not listed in Appendix E of this Part but subject to this Subpart shall not receive an allocation of NO_x allowances from the Subpart U or Subpart W NO_x Trading Budget, except for any allowances from the NSSA~~new source set-aside~~ in accordance with Section 217.468 of this Subpart. Such unit must acquire NO_x allowances in an amount not less than the NO_x emissions from such budget unit during the control period (rounded to the nearest whole ton) in accordance with the federal NO_x Trading Program, Subpart X of this Part or pursuant to a permanent transfer of NO_x allocations pursuant to Section 217.462(b) of this Subpart.

e) This Subpart does not apply to the following boilers used to combust and thereby control CO emissions from a fluidized catalytic cracking unit (FCCU), specifically the Boiler 112B-2 at the refinery located in Lemont, Illinois; Boilers 14B-3 and 14B-4 at the refinery located in Channahon/Joliet, Illinois; the waste heat boiler 60F-1 at the refinery located in Robinson, Illinois; and CO Heaters/Boilers CCU No.1 and CCU No. 2 at the refinery located in Roxana, Illinois.~~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_x *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_x *trading programs and otherrequired reductions of* NO_x *emissions pursuant to the* NO_x *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.*~~ ~~[415 ILCS 5/9.9(f)]~~

(Source: Amended at ____ Ill. Reg. ______, effective ____________________)

Section 217.456 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 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) Budget 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 217.458(a)(4), (a)(5) or (a)(6), as applicable, to be issued by the Agency with federally enforceable conditions covering the NO_x Trading Program (budget permit), and that complies with the requirements of Section 217.458 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 submit a complete application for ~~either~~ a permit either 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~~, or both. 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_x 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.

4) 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) Allowance 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_x emissions for the control period (rounded to the nearest whole ton), as determined in accordance with subsection (c) of this Section, 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_x 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_x emitted by a source with one or more budget units subject to this Subpart in any control period in excess of the NO_x 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_x Trading Program is a limited authorization to emit one ton of NO_x. No provision of the NO_x 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_x 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 at the source each of the documents listed in subsections (e)(1)(A) through (e)(1)(D) of this Section for a period of 5 years from the date the document is created. This period may be extended for cause at any time prior to the end of 5 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 submitted~~,~~ in accordance with subsection (c) of this Section, 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_x Trading Program or documents necessary to demonstrate compliance with the requirements of this Subpart or the NO_x 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_x 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_x 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_x 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_x Trading Program.

3) Any provision of this Subpart or the NO_x 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_x 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 unit~~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_x 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: Amended at ____ Ill. Reg. _______, effective ______________________)

Section 217.460 Subpart U NO_x Trading Budget

a) The initial NO_x allowances available for allocation for each control period (the Subpart U NO_x Trading Budget) for budget units subject to the provisions of this Subpart shall be 4,856~~4,882~~ tons per control period, subject to adjustment in accordance with subsections (b), (c) and (d) of this Section, and subject to the NSSA~~new source set-aside~~ for budget units subject to this Subpart, as set forth in Sections 217.462 and 217.464 of this Subpart. The Subpart U NO_x Trading Budget shall be ~~initially~~ allocated as set forth in Appendix E of this Part, as may be amended from time to time.

b) The Agency may adjust the Subpart U NO_x Trading Budget available for allocations in subsection (a) of this Section by adding allowances for budget units subject to this Subpart opting to become subject to this Subpart pursuant to the requirements for opt-in units in Sections 217.474 and 217.476 of this Subpart.

c) The Agency shall adjust the Subpart U NO_x 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 Sections 217.454(c) and 217.472 of this Subpart.

d) Except as set forth in subsection (e) of this Section, if USEPA adjusts the base Subpart U NO_x Trading Budget of 4,856~~4,882~~ allowances, the Agency will adjust the Subpart U NO_x Trading Budget pro-rata.

e) If USEPA adjusts the Subpart U NO_x Trading Budget as to any individual budget unit, the Subpart U NO_x Trading Budget will~~shall~~ not be adjusted pro-rata, and only the allowance allocation for that budget unit will be adjusted.

(Source: Amended at ____ Ill. Reg. ______, effective ____________________)

Section 217.462 Methodology for Obtaining NO_x Allocations

a) Appendix E of this Part identifies the sources with existing budget units subject to this subpart and the number of NO_x allowance allocations that each such budget unit is eligible to receive each control period, subject to adjustment in accordance with Section 217.460 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_x Trading Budget as provided by Section 217.460 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 5 of Appendix E of this P~~p~~art, 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 numbers~~number~~ for both the transferring budget unit and the recipient budget unit. The owner or operator of budget units subject to this Subpart may not permanently transfer all or part of the NSSA ~~new source set-aside~~ indicated as the difference between Column 4 and Column 5 of Appendix E of this Part.

c) Subject to adjustment in accordance with this Subpart, or revocation or revision of the federal NO_x 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.

d) Notwithstanding the provisions of subsections (a) and (c) of this Section for fixed allocations to budget units listed in Appendix E of this Part, under any of the circumstances listed in subsections (d)(1) through (d)(3) of this Section, the Agency will allocate such allowances listed in Appendix E to different budget units pursuant to the procedures in subsection (e) of this Section. This authority does not apply to allowances at a source or emission unit subject to or at issue in a pending bankruptcy action, or where an order for relief has been entered in an involuntary bankruptcy case such that the debtor, trustee, or other parties in interest may assert that the owner or operator's interest in the NOx allowances may be considered property of the estate pursuant to Section 541(a) of the Bankruptcy Code (11 U.S.C. § 541(a)).

1) An owner or operator of a source listed in Appendix E of this Part fails to have an account representative or have a valid NO_x allowance account with USEPA within twenty-four months after the date that the Agency is required to make a NO_x allocation to that source or budget unit.

2) A source or a budget unit listed Appendix E which meets all of the following conditions:

A) Is permanently shutdown;

B) Is not replaced;

C) Withdraws, terminates, or fails to hold the applicable permit; and

D) Fails to transfer to another source or budget unit subject to the requirements of Subpart U its fixed allocation from Appendix E. Such transfer must be made within two years of the date that the Agency was required to make a NO_x allocation to the source or budget unit.

3) A source or budget unit is sold and the former owner or operator fails to notify the Agency in writing, within two years after the date that the Agency was required to make a NO_x allocation to the source or budget unit, whether the former owner has transferred the NOx allocation to the new owner or operator as part of the sale or has transferred the NOx allocation to another source or budget unit subject to the requirements of Subpart U.

e) In the event that any of the circumstances in subsections (d)(1) through (d)(3) of this Section occur, the Agency will send a certified letter to the registered NO_x account representative or the owner or operator listed on the source's most recent operating permit with a notification that the source's or budget unit's Appendix E allocation has lapsed. The owner or operator or account representative will have 45 days to respond in writing. If the Agency does not receive a response within 45 days with evidence that the source has appointed an account representative and opened a NO_x allowance account pursuant to subsection (d)(1) of this Section; is not shutdown or transferred as specified in subsection (d)(2) of this Section; or that the owner or operator of the source has, prior to the date of the certified letter, permanently transferred the NO_x allowances to another source or unit in operation pursuant to subsection (d)(3) of this Section, as applicable, the Agency will deem the allowances forfeited and allocate the allowances as follows:

1) In the case of a lapse under subsection (d)(1) or (d)(2) of this Section, the allowances will be allocated annually on a pro-rata basis pursuant to the heat input formula in Section 217.464(b) of this Subpart to sources that are subject to the requirements of Subpart U and that commenced operating on or after January 1, 2002, and do not receive an allocation pursuant to Appendix E of this Part. The Agency will post on its NO_x Trading website the availability of such allowances and the deadlines for submitting an application for these allowances.

2) To the extent that more than 100 allowances remain after the Agency allocates allowances pursuant to subsection (e)(1) above, the Agency shall allocate these remaining allowances on an annual basis to the owners or operators of the budget units listed in Appendix E. These allocations will be made pro-rata according to the allocations listed for each budget unit in Appendix E. If there are insufficient allowances to allocate whole allowances, such unallocated allowances shall be retained by the Agency and will be available for allocation in successive control periods pursuant to subsection (e)(1) of this Section.

3) In the case of a lapse under subsection (d)(3) of this Section, the allowances will be allocated to the current owner or operator of the source or emission unit on an annual basis. Within two years after making such an allocation under this Subsection, the Agency will propose a rulemaking to the Board to amend Appendix E of this Part to reflect a change in these allocations.

(Source: Amended at ____ Ill. Reg. _______, effective ____________________)

Section 217.464 Methodology for Determining NO_x Allowances from the New Source Set-Aside

a) The methodology for calculating the allowances available to be allocated to "new" budget units as defined by Section 217.468 of~~subject to~~ this Subpart from the NSSA ~~new source set-aside~~ is based on the more stringent emission rate of 0.15 lbs/mmbtu or the permitted NO_x emission rate, but not less than 0.055 lbs/mmbtu.

b) The general equation for determining allowances is:

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

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

Where ER = The NO_x emission rate in lbs/mmbtu as determined in accordance with subsection (a) of this Section.

Where A = allowances of NO_x/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 seasonal heat input from at least 3 control periods prior to the allocation year, the average of the budget unit's 2 highest seasonal heat inputs from the control periods 1 to 3 years prior to the allocation year;

2) For "new" budget units subject to this Subpart that have seasonal heat input from only 2 control periods prior to the allocation year, the average of the budget unit's seasonal heat inputs from the control periods 1 and 2 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 did not commence operation on or before July 16th ~~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: Amended at ____ Ill. Reg. ______, effective ____________________)

Section 217.466 NO_x Allocations Procedure for Subpart U Budget Units

For each control period, the Agency will allocate the total number of NO_x allowances in the Subpart U NO_x Trading Budget apportioned to budget units under Section 217.460 of this Subpart, subject to adjustment as provided in this Subpart. These allocations will be issued as provided in subsections (a) and (b) of this Section, as follows:

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 3-year period of the program, except as provided in Section 217.462 of this Subpart. The Agency will report these allocations to USEPA by April ~~March~~ 1 of 2004, and triennially thereafter.

b) The Agency will allocate allowances from the NSSA ~~new source set-aside~~ to "new" budget units as set forth in Section 217.468 of this Subpart.

c) The Agency will report allocations from the NSSA ~~new source set-aside~~ to USEPA by May~~April~~ 1 of each year for the following year.

d) To the extent that allowances remain in the NSSA ~~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 in 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 in Appendix E of this Part, such allowances shall be retained by the Agency in the NSSA ~~new source set-aside~~. Any such allowances retained in the new source set-aside shall be accumulated in the NSSA ~~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 217.468 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 in 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: Amended at ____ Ill. Reg. ______, effective ____________________)

Section 217.468 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 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 at 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_x emitted during the control period as provided in Section 217.456(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_x allowances. Each NSSA ~~new source set-aside~~ will be allocated allowances equal to 3% of each source's initial total Subpart U NO_x Trading Budget allocation as reflected in Column 5 of Appendix E of this Part, which is 145~~146~~ allowances, for each control period. The allocation for the NSSA ~~new source set-aside~~ from each source shall be based on 3% 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_x Trading Budget by USEPA or election of low-emitter status.

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 217.464 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 NSSA ~~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 NSSA ~~new source set-aside~~. At a minimum, such request shall include all data and calculations used to support the request. Heat input data shall be submitted with the request in an electronic spreadsheet or electronic data report (EDR) format. 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 by ~~before~~ February 15 before ~~1 of~~ the control period for which the allocation is requested.

f) The Agency will sell allowances from the NSSA pursuant to the procedures in 35 Ill. Adm. Code 273. ~~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 this Section, up to the number of allowances requested by each account representative. Such additional allocations are subject to the purchase requirements of subsection (g) of this Section.~~

g) ~~The price of allowances from the new source set-aside shall be:~~

~~1) For 2004 only, the price shall be the average price at which NO_x allowances were traded in 2003 in the Ozone Transport Region; and~~

~~2) For all years other than 2004, the average price at which NO_x allowances were traded in the interstate NO_x Trading Program for the preceding control period.~~

~~h)~~ 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's administrative costs assessed pursuant to Section 9.9 of the Act.

(Source: Amended at ____ Ill. Reg. _______, effective ____________________)

Section 217.472 Low-Emitter Exemption Requirements

Starting with the effective date of the permit referred to in Section 217.454(c), ~~the~~ a budget unit electing low-emitter status pursuant to the requirements of this Section shall be subject only to the following requirements: ~~of this Section~~.

a) For each control period the owner or operator elects low-emitter status, the federally enforceable permit conditions must:

1) Restrict the unit to burning only natural gas, fuel oil, or natural gas and fuel oil;

2) Limit the unit's potential NO_X mass emissions for the control period to the lesser of 25 tons or the sum of allowances that have been permanently transferred to that unit from another unit listed in Appendix E of this Part plus the number of allowances allocated to the unit in Appendix E of this Part and not otherwise allocated pursuant to Section 217.462(d) or (e) of this Subpart, or plus any allowances issued for voluntary NO_X reductions meeting the requirements of Subpart X of this Part ~~less~~;

3) Restrict the unit's operating hours to the number calculated by dividing the ~~25 tons of~~ potential NO_X mass emissions as provided in subsection (a)(2) of this Section by the unit's maximum potential hourly NO_X mass emissions pursuant to subsection (a)(4) of this Section;

4) Require that the unit's potential NO_X 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, as follows:

A) Select the applicable default NO_X emission rate:
0.7 lbs/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.

B) Multiply the default NO_X emission rate under subsection (a)(4)(A) 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;

5) Require that for 5 years at the source that includes the unit, records be maintained demonstrating that the operating hours restriction, the fuel use restriction and the other requirements of the permit related to these restrictions were met; and

6) Require that the owner or operator of the unit report to the Agency for each control period 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 1st of each year the unit elects low-emitter status.

b) The Agency will notify the USEPA in writing of each unit electing low-emitter status pursuant to the requirements of subsection (a) of this Section and when any of the following occurs:

1) The permit with federally enforceable conditions that includes the restrictions in subsection (a) of this Section is issued by the Agency;

2) Such permit is revised to remove any such restriction;

3) Such permit includes any such restriction that is no longer applicable; or

4) The unit does not comply with any such restriction.

c) The unit shall become subject to the requirements of this Subpart if, for any control period under this Section, the fuel use restriction or the operating hours restriction under subsection (a) 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 (a) 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.

d) Only ~~The owner or operator of~~ a unit located at a source to which the Agency has ever allocated allowances under Appendix E of this Part may elect low-emitter status. ~~In that case, t~~The Agency will reduce the Subpart U NO_X budget by the number of allowances equal to the amount of NO_X emissions the unit is permitted to emit during the control period, pursuant to a federally enforceable condition in the unit's permit. In no case will the Agency deduct more allowances than the sum of allowances that the unit was allocated in Appendix E of this Part plus any allowances that have been permanently transferred to that budget unit, as the same may be limited by the requirements of Section 217.462(d) or (e) of this Subpart. If the owner or operator has requested a permit emission limit greater than its allocation for the unit as set forth in Appendix E of the Part, t~~T~~he owner or operator ~~of a unit~~ ~~electing low-emitter status~~ may demonstrate that it holds sufficient allowances to cover the unit's NO_X emissions ~~by offsetting the emissions from such unit~~, not to exceed 25 tons per control period ~~its permitted emission limit as included in its federally enforceable permit~~, with allowances issued for voluntary NO_X reductions meeting the requirements of Subpart X of this Part or that there has a been a permanent transfer of allowances from another unit listed in Appendix E. The Agency will not reduce the Subpart U NO_X budget by the allowances issued for NO_X reductions obtained in accordance with Subpart X of this Part.

(Source: Amended at ____ Ill. Reg. _______, effective ______________________)

SUBPART W: NO_x TRADING PROGRAM FOR ELECTRICAL GENERATING UNITS

Section 217.754 Applicability

a) The following fossil fuel-fired stationary boilers, combustion turbines or combined cycle systems are electrical generating units (EGUs) and are subject to this Subpart:

1) Any unit serving a generator that has a nameplate capacity greater than 25 MWe and produces electricity for sale, excluding those units listed in Appendix D of this Part.

2) Any unit with a maximum design heat input that is greater than 250 mmbtu/hr that commences operation on or after January 1, 1999, serving at any time a generator that has a nameplate capacity of 25 MWe or less and has the potential to use more than 50% of the potential electrical output capacity of the unit. Fifty percent 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 greater than this calculated number, the unit is an EGU subject to the provisions of this Subpart.

b) Those units that meet the above criteria and are subject to the NO_x Trading Program emissions limitations contained in this Subpart are budget EGUs.

c) ~~Low-emitter status: Notwithstanding subsection (a) of this Section, the owner or operator of a budget EGU under subsection (a) of this Section may elect low-emitter status by obtaining a permit with federally enforceable conditions meeting the requirements of subsection (c)(1) of this Section. Starting with the effective date of such permit, the EGU shall not be a budget EGU and shall be subject only to the requirements of this subsection (c).~~

~~1) For each control period under this subsection (c), the federally enforceable permit conditions must:~~

~~A) Restrict the EGU to burning only natural gas, fuel oil, or natural gas and fuel oil;~~

~~B) Limit the EGU's potential NO_x mass emissions for the control period to 25 tons or less;~~

~~C) Restrict the EGU's operating hours during the control period to the number calculated by dividing 25 tons of potential NO_x mass emissions by the EGU's maximum potential hourly NO_x mass emissions;~~

~~D) Require that the EGU's potential NO_x mass emissions be calculated by using the monitoring provisions of 40 CFR 75 or, if the EGU does not rely on these monitoring provisions, by using the applicable default rate, as follows:~~

~~i) Select the applicable default NO_x emission rate from one of the following:~~

~~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_x emission rate under subsection (c)(1)(D)(i) of this Section by the EGU's unit-specific maximum rated heat input (mmbtu), 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 EGU may request in the permit application required by this subsection (c) that the Agency use a lower value for the EGU'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 also demonstrate that such lower value is representative of the EGU's current capabilities because modifications have been made to the EGU that permanently limit the EGU's capacity;~~

~~E) Require that the owner or operator of the EGU retain for five years, at the source that includes the EGU, 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 EGU report to the Agency the EGU's hours of operation (treating any partial hour of operation as a whole hour of operation), heat input, and fuel use by type during each control period. This report shall be submitted by November 1 of each year the EGU elects low-emitter status.~~

~~2) The Agency will notify USEPA in writing of each EGU 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 EGU does not comply with any such restriction.~~

~~3) The EGU shall become a budget EGU, 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 EGU's permit or otherwise becomes no longer applicable, or the EGU does not comply with the fuel use restriction or the operating hours restriction under subsection (c)(1) of this Section. Such EGU shall be treated as commencing operation and, for a unit under subsection (a)(1) of this Section, commencing commercial operation, on September 30 of the year prior to the control period for which the fuel use restriction or the operating hours restriction is no longer applicable or during which the EGU does not comply with the fuel use restriction or the operating hours restriction.~~

~~4) The owner or operator of an EGU to which the Agency has ever allocated allowances may elect low-emitter status. In that case, the Agency will reduce the EGU trading budget by the number of allowances corresponding to the amount of NO_x emissions the EGU is permitted to emit during the control period as set forth in the EGU's federally enforceable state operating permit.~~

~~d)~~ Notwithstanding the provisions in subsection (a) of this Section, sources may opt-in to the NO_x Trading Program and will receive allowance allocations consistent with applicable requirements, if they meet the requirements for a budget opt-in unit pursuant to Sections 217.774 through 217.782 of this Part.

(Source: Amended at ____ Ill. Reg. ______, effective ____________________)

Section 217.756 Compliance Requirements

All EGUs 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) and 96.55(c), and excluding 40 CFR 96, Subparts C, E, and I) as incorporated by reference in Section 217.104 of this Part.

b) Permit requirements:

1) The owner or operator of each source with one or more budget EGUs at the source must apply for a permit issued by the Agency with federally enforceable conditions covering the NO_x Trading Program ("budget permit") that complies with the requirements of Section 217.758 of this Part.

2) The owner or operator of each budget source and each budget EGU at the source must operate the budget EGU in compliance with such budget permit.

c) Monitoring requirements:

1) The owner or operator of each budget source and each budget EGU at the source must comply with the monitoring requirements of 40 CFR 96, subpart H. The account representative of each budget source and each budget EGU at the source must 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 EGU with the budget 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.

d) NO_x requirements:

1) By November 30 of each year, the allowance transfer deadline, the account representative of each budget source and each budget EGU at the source

shall hold allowances available for compliance deductions under 40 CFR 96.54 in the budget EGU's compliance account or the source's overdraft account. The number of allowances held shall not be less than the budget EGU's total tons of NO_x emissions for the control period, rounded to the nearest whole ton, as determined in accordance with 40 CFR 96, subpart H, plus any number necessary to account for actual utilization (e.g., for testing, start-up, malfunction, and shut down) under 40 CFR 96.42(e) for the control period.

2) Each ton of NO_x emitted in excess of the number of NO_x allowances held by the owner or operator for each budget EGU for each control period shall constitute a separate violation of this Part and the Act.

3) A budget EGU shall be subject to the monitoring and NO_x requirements of subsections (c)(1) and (d)(1) of this Section starting on the later of May 31, 2004, or the date on which the EGU commences operation. ~~OR 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_X SIP CALL (63 Fed. Reg. 57355 (October 27, 1998)) THAT ARE LOCATED IN USEPA REGION V OR THAT ARE CONTIGUOUS TO ILLINOIS HAVE ADOPTED REGULATIONS TO IMPLEMENT NO_X TRADING PROGRAMS AND OTHER REQUIRED REDUCTIONS OF NO_X EMISSIONS PURSUANT TO THE NO_X 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. [415 ILCS 5/9.9(f)]~~

4) 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, and Sections 217.774 through 217.782 of this Subpart~~Part~~.

5) 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 is allocated.

6) An allowance allocated by the Agency or USEPA under the NO_x Trading Program is a limited authorization to emit one ton of NO_x in accordance with the NO_x Trading Program. No provision of the NO_x Trading Program, the budget permit application, the budget permit, or a retired unit 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.

7) An allowance allocated by the Agency or USEPA under the NO_x Trading Program does not constitute a property right.

8) Upon recordation by USEPA under 40 CFR 96, subpart F or G, or Section 217.782 of this Part, every allocation, transfer, or deduction of an allowance to or from a budget EGU's compliance account or to or from the overdraft account of the budget source where the budget EGU is located is deemed to amend automatically, and become a part of, any budget permit of the budget EGU. This automatic amendment of the budget permit shall be deemed an operation of law and will not require any further review.

e) Recordkeeping and reporting requirements:

1) Unless otherwise provided, the owner or operator of the budget source and each budget EGU at the source shall 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 of the account representative for the source and each budget EGU at the source, 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 40 CFR 96, subpart H, 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 the NO_x Trading Program or documents necessary to demonstrate compliance with the requirements of the NO_x Trading Program or with the requirements of this Subpart.

D) Copies of all documents used to complete a budget permit application and any other submission under the NO_x Trading Program.

2) The account representative of a budget source and each budget EGU at the source must submit to the Agency and USEPA the reports and compliance certifications required under the NO_x Trading Program, including those under 40 CFR 96, subparts D and H, and Section 217.774 of this Part.

f) Liability:

1) No revision of a permit for a budget EGU shall excuse any violation of the requirements of the NO_x Trading Program that occurs prior to the date that the revision to such budget permit takes effect.

2) Each budget source and each budget EGU shall meet the requirements of the NO_x Trading Program.

3) Any provision of the NO_x Trading Program that applies to a budget source (including any provision applicable to the account representative of a budget source) shall also apply to the owner and operator of such budget source and to the owner and operator of each budget EGU at the source.

4) Any provision of the NO_x Trading Program that applies to a budget EGU (including any provision applicable to the account representative of a budget EGU) shall also apply to the owner and operator of such budget EGU. Except with regard to the requirements applicable to budget EGUs with a common stack under 40 CFR 96, subpart H, the owner and operator and the account representative of one budget EGU shall not be liable for any violation by any other budget EGU of which they are not an owner or operator or the account representative.

5) The account representative of a budget EGU 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 the NO_x Trading Program, a budget permit application, a budget permit, ~~a low-emitter exemption under Section 217.754(c) of this Subpart,~~ or a retired unit exemption under 40 CFR 96.5 shall be construed as exempting or excluding the owner and operator and, to the extent applicable, the account representative of a budget source or budget EGU, from compliance with any other regulation promulgated under the CAA, the Act, an approved State implementation plan, or a federally enforceable permit.

(Source: Amended at ____ Ill. Reg. ______, effective ____________________)

Section 217.760 NO_x Trading Budget

The NO_x trading budget available for allowance allocations for each control period shall be determined as follows:

a) The total base EGU trading budget is 30,701 tons per control period subject, however, to the following:

1) In 2004 through 2006, 5% of this number shall be allocated to the NSSA ~~new source set-aside~~ under Section 217.768 of this Part, resulting in an EGU trading budget of 29,166 tons available for allocation per control period; and

2) In 2007 and thereafter, 2% of this amount shall be allocated to the NSSA ~~new source set-aside~~, resulting in an EGU trading budget of 30,087 tons available for allocation per control period.

b) (reserved) ~~The Agency must adjust the total base EGU trading budget available for allocation in subsection (a) of this Section to remove allowances from budget EGUs opting to become exempt pursuant to the requirements for low-emitters in Section 217.754(e)(4) of this Part.~~

~~c) If USEPA adjusts the total base EGU trading budget for any reason, the Agency will adjust the budget pro rata.~~

(Source: Added at 25 Ill. Reg. 128, effective December 26, 2000)

Section 217.764 NO_x Allocations for Budget EGUs

For each control period, the Agency will allocate the total number of NO_x allowances in the trading budget apportioned to budget EGUs under Section 217.760 of this Part. These allocations will be issued as provided in subsections (a) through (f) of this Section and Section 217.768 for this Part of new sources. Specifically:

a) For control periods~~In~~ 2004, 2005, and 2006 ~~(or the first three years of the program)~~:

1) The Agency will allocate to each budget EGU that is listed in Appendix F of this Part the number of allowances listed in Column 7 of Appendix F of

this Part for that budget EGU, as well as any allowances that are not allocated from the NSSA ~~new source set-aside~~ to budget EGUs in subsection (a)(2) of this Section. Any such allowances from the NSSA ~~new source set-aside~~ will be allocated to budget EGUs listed in Appendix F of this Part pursuant to 217.768(j) of this Part.

2) The Agency will allocate allowances from the NSSA ~~new source set-aside~~ to budget EGUs that commenced commercial operation on or after January 1, 1995, pursuant to Section 217.768 of this Part.

3) The Agency will report these allocations to USEPA at the time it submits the SIP, except for the allocations from the NSSA. These allocations shall be posted on or before the May 1st prior to the applicable control period.

b) For control period~~In~~ 2007 ~~(or the fourth year of the program)~~:

1) The Agency will allocate to each budget EGU that is listed in Appendix F of this Part the number of allowances listed in Column 8 of Appendix F for that budget EGU, and any allowances that are not allocated to budget EGUs under subsection (b)(2) of this Section will be allocated as provided in subsection (b)(4) of this Section.

2) The Agency will apportion to each budget EGU that commenced commercial operation on or after January 1, 1995, and on or before May 1, 2003, allowances as calculated in the following equation:

$$A = \frac{0.80 \times (HI \times ER)}{2000}$$

Where:

HI = heat input (in mmbtu/control period) as determined in Section 217.762(b) of this Part.

ER = the NO_x emission rate in lbs/mmbtu, as determined in Section 217.762(a)(2) of this Part.

A = allowances of NO_x/control period.

3) Notwithstanding subsection (b)(2) of this Section, if the total number of allowances determined by subsection (b)(2) of this Section is more than 6,017, which is the number of allowances remaining in the trading budget after allocations have been made to budget EGUs in subsection (b)(1) of this Section, the Agency will prorate the number of NO_x allowances

available to budget EGUs pursuant to the criteria in subsection (b)(2) of this Section so that the total number of allowances allocated to these budget EGUs does not exceed 6,017.

4) If the total number of allowances allocated pursuant to subsection (b)(2) of this Section is less than 6,017, which is the number of allowances remaining in the trading budget after allocations have been made to budget EGUs in subsection (b)(1) of this Section, the Agency will allocate the remaining allowances to budget EGUs as follows:

A) For budget EGUs in subsection (b)(1) of this Section, the pro-rata allocation shall be determined by the heat input calculated pursuant to Section 217.762(b) of this Part, multiplied by the emission rate in Section 217.762(a)(1) of this Part.

B) For budget EGUs in subsection (b)(2) of this Section, the pro-rata allocation shall be determined by the heat input calculated pursuant to Section 217.762(b) of this Part, multiplied by the emission rate in Section 217.762(a)(2) of this Part.

5) The Agency will allocate allowances from the NSSA ~~new source set-aside~~, pursuant to Section 217.768 of this Part, to budget EGUs that commence~~commenced~~ commercial operation after May 1, 2003, and before May 2, 2008 ~~and that have not operated for the full 2003 control period~~.

6) The Agency will report these allocations to USEPA by April 1, 2004, except for allocations from the NSSA ~~new source set-aside~~, which the Agency will report by May 1, 2007.

c) For control period~~In~~ 2008 ~~(or the fifth year of the program)~~:

1) The Agency will allocate to each budget EGU that is listed in Appendix F of this Part the number of allowances listed in Column 8 of Appendix F for that budget EGU, and any allowances that are not allocated to budget EGUs under subsection (c~~b~~)(2) of this Section will be allocated as provided in subsection (c~~b~~)(4) of this Section.

2) The Agency will apportion to each budget EGU that commenced commercial operation on or after January 1, 1995, and on or before May 1, 2004, allowances as calculated in the following equation:

$$A = \frac{0.80 \times (HI \times ER)}{2000}$$

Where:

HI = heat input (in mmbtu/control period) as determined in Section 217.762(b) of this Part.

ER = the NO_x emission rate in lbs/mmbtu, as determined in Section 217.762(a)(2) of this Part.

A = allowances of NO_x/control period.

3) Notwithstanding subsection (c)(2) of this Section, if the total number of allowances determined by subsection (c)(2) of this Section is more than 6,017, which is the number of allowances remaining in the trading budget after allocations have been made to budget EGUs in subsection (c)(1) of this Section, the Agency will prorate the number of NO_x allowances available to budget EGUs pursuant to the criteria in subsection (c)(2) of this Section so that the total number of allowances allocated to these budget EGUs does not exceed 6,017.

4) If the total number of allowances allocated pursuant to subsection (c)(2) of this Section is less than 6,017, which is the number of allowances remaining in the trading budget after allocations have been made to budget EGUs in subsection (c)(1) of this Section, the Agency will allocate the remaining allowances to budget EGUs as follows:

A) For budget EGUs in subsection (c)(1) of this Section, the pro-rata allocation shall be determined by the heat input calculated pursuant to Section 217.762(b) of this Part, multiplied by the emission rate in Section 217.762(a)(1) of this Part.

B) For budget EGUs in subsection (c)(2) of this Section, the pro-rata allocation shall be determined by the heat input calculated pursuant to Section 217.762(b) of this Part, multiplied by the emission rate in Section 217.762(a)(2) of this Part.

5) The Agency will allocate allowances from the NSSA ~~new source set-aside~~, pursuant to Section 217.768 of this Part, to budget EGUs that commence ~~commenced~~ commercial operation after May 1, 2004, and before May 2, 2009 ~~and that have not operated for the full 2004 control period~~.

6) The Agency will report these allocations to USEPA by April 1, 2005, except for allocations from the NSSA ~~new source set-aside~~, which the Agency will report by May 1, 2008.

d) For control period ~~In~~ 2009 ~~(or the sixth year of the program)~~:

1) The Agency will allocate to each budget EGU that is listed in Appendix F of this Part the number of allowances listed in Column 9 of Appendix F for that budget EGU and any allowances that are not allocated to budget EGUs under subsection (d)(2) of this Section will be allocated as provided in subsection (d)(4) of this Section.

2) The Agency will apportion to each budget EGU that commence ~~commenced~~ commercial operation on or after January 1, 1995, and on or before May 1, 2005, allowances calculated in the following equation:

$$A = \frac{0.50 \times (HI \times ER)}{2000}$$

Where:

HI = heat input (in mmbtu/control period) as determined in Section 217.762(b) of this Part.

ER = the NO_x emission rate in lbs/mmbtu, as determined in Section 217.762(a)(2) of this Part.

A = allowances of NO_x/control period.

3) Notwithstanding subsection (d)(2) of this Section, if the total number of allowances determined by subsection (d)(2) of this Section is more than 15,043, which is the number of allowances remaining in the trading budget after allocations have been made to budget EGUs in subsection (d)(1) of this Section, the Agency will prorate the total number of NO_x allowances available to budget EGUs that received allowances pursuant to the criteria in subsection (d)(2) of this Section so that the total number of allowances allocated to these budget EGUs does not exceed 15,043.

4) If the total number of allowances allocated pursuant to subsection (d)(2) of this Section is less than 15,043, which is the number of allowances remaining in the trading budget after allocations have been made to budget EGUs in subsection (d)(1) of this Section, the Agency will allocate the remaining allowances to budget EGUs as follows:

A) For budget EGUs in subsection (d)(1) of this Section, the pro-rata allocation shall be determined by the heat input calculated pursuant to Section 217.762(b) of this Part, multiplied by the emission rate in Section 217.762(a)(1) of this Part.

B) For budget EGUs in subsection (d)(2) of this Section, the pro-rata allocation shall be determined by the heat input calculated pursuant to Section 217.762(b) of this Part, multiplied by the emission rate in Section 217.762(a)(2) of this Part.

5) The Agency will allocate allowances from the NSSA ~~new source set-aside~~, pursuant to Section 217.768 of this Part, to budget EGUs that commenced commercial operation after May 1, 2005, and before May 2, 2010 ~~and that have not operated for the full 2005 control period~~.

6) As of April 30, 2009, if the number of allowances in the NSSA ~~new source set-aside~~ exceeds 3% of the total number of tons of NO_x emissions in the trading budget apportioned to budget EGUs as determined pursuant to Section 217.768(i) and (j) of this Part, the number of allowances above 3% will be allocated to budget EGUs receiving allowances pursuant to this subsection (d).

7) The Agency will report these allocations to USEPA by April 1, 2006, except for allocations from the NSSA ~~new source set-aside~~, which the Agency will report by May 1, 2009.

e) For control period ~~In~~ 2010 ~~(or the seventh year of the program)~~:

1) The Agency will allocate to each budget EGU that is listed in Appendix F of this Part the number of allowances listed in Column 9 of Appendix F for that budget EGU and any allowances that are not allocated to budget EGUs under subsection (e)(2) of this Section as provided in subsection (e)(4) of this Section.

2) The Agency will assign to each budget EGU that commence ~~commenced~~ commercial operation on or after January 1, 1995, and on or before May 1, 2006, allowances as calculated in the following equation:

$$A = \frac{0.50 \times (HI \times ER)}{2000}$$

Where:

HI = heat input (in mmbtu/control period) as determined in Section 217.762(b) of this Part.

ER = the NO_x emission rate in lbs/mmbtu, as determined in Section 217.762(a)(2) of this Part.

A = allowances of NO_x/control period.

3) Notwithstanding subsection (e)(2) of this Section, if the total number of allowances determined by subsection (e)(2) of this Section is more than 15,043, which is the number of allowances remaining in the trading budget after allocations have been made to budget EGUs in subsection (e)(1) of this Section, the Agency will prorate the total number of NO_x allowances allocated to budget EGUs that received allowances pursuant to the criteria in subsection (e)(2) of this Section so that the total number of allowances allocated to these budget EGUs does not exceed 15,043.

4) If the total number of allowances allocated pursuant to subsection (e)(2) of this Section is less than 15,043, which is the number of allowances remaining in the trading budget after allocations have been made to budget EGUs in subsection (e)(1) of this Section, the Agency will allocate the remaining allowances to budget EGUs as follows:

A) For budget EGUs in subsection (e)(1) of this Section, the pro-rata allocation shall be determined by the heat input calculated pursuant to Section 217.762(b) of this Part, multiplied by the emission rate in Section 217.762(a)(1) of this Part.

B) For budget EGUs in subsection (e)(2) of this Section, the pro-rata allocation shall be determined by the heat input calculated pursuant to Section 217.762(b) of this Part, multiplied by the emission rate in Section 217.762(a)(2) of this Part.

5) The Agency will allocate allowances from the NSSA ~~new source set-aside~~, pursuant to Section 217.768 of this Part, to budget EGUs that commence~~commenced~~ commercial operation after May 1, 2006, and before May 2, 2011~~and that have not operated for the full 2006 control period~~.

6) As of April 30, 2010, if the number of allowances in the NSSA ~~new source set-aside~~ exceeds 3% of the total number of tons of NO_x emissions in the trading budget apportioned to budget EGUs as determined pursuant to Section 217.768(i) and (j) of this Part, the number of allowances above 3% will be allocated to budget EGUs receiving allowances pursuant to this subsection (e).

7) The Agency will report these allocations to USEPA by April 1, 2007, except for allocations from the NSSA ~~new source set-aside~~, which the Agency will report by May 1, 2010.

f) For control period~~In~~ 2011 ~~(or the eighth year) of the program~~ and annually thereafter:

1) The Agency will apportion the available NO_x allowances to each budget EGU based on its heat input determined in Section 217.762(b) of this Part, multiplied by:

   A) For budget EGUs that commenced commercial operation prior to January 1, 1995, the NO_x emission rate determined in Section 217.762(a)(1) of this Part.

   B) For budget EGUs that commence~~commenced~~ commercial operation on or after January 1, 1995, the NO_x emission rate determined in Section 217.762(a)(2) of this Part.

2) The Agency will allocate allowances from the NSSA ~~new source set-aside~~, pursuant to Section 217.768 of this Part, to budget EGUs that commence~~commenced~~ commercial operation after May 1st of the control period five~~four~~ years prior to the year in which allocations are ~~made and that have not operated for the full control period four years prior to the year in which the allocations are being made~~.

3) As of April 30, 2011, if the number of allowances in the NSSA ~~new source set-aside~~ exceeds 3% of the total number of tons of NO_x emissions in the trading budget apportioned to budget EGUs as determined pursuant to Section 217.768(e) and (f) of this Part, the number of allowances above 3% will be allocated to budget EGUs receiving allowances pursuant to this subsection (f).

4) The Agency will report these allocations to USEPA by April 1 of each year that is three years prior to the year in which the allocations are being made, except for allocations from the NSSA ~~new source set-aside~~, which the Agency will report by May 1 of each year in which the allocations are being made.

~~BOARD NOTE: Because of litigation involving the NO_x SIP Call, Michigan v. EPA, No. 98-1497, 2000 WL 180650 (D.C. Cir. March 3, 2000), the years defining the control periods may change. Should this occur, the dates set forth under each year will be considered to adjust correspondingly.~~

(Source: Amended at ____ Ill. Reg. _______, effective ________________________)

Section 217.768 New Source Set-Asides for "New" Budget EGUs

a) "New" budget EGUs

1) A "new" budget EGU is one that commences~~commenced~~ commercial operation on or after January 1, 1995, and does not receive allowances pursuant to Section 217.764 of this Part.

2) "New" budget EGUs must have an allowance for every ton of NO_x emitted during the control period as provided in Section 217.756(d) of this Part.

3) A "new" budget EGU may request from the Agency a number of allowances that is not more than the number of allowances for which it is eligible, as determined in subsection (e) of this Section.

b) The Agency shall apportion allowances from the NSSA ~~new source set-aside~~ as follows:

1) For 2004, 2005, and 2006, to budget EGUs that commence~~commenced~~ commercial operation on or after January 1, 1995; and

2) For 2007 and thereafter, to budget EGUs that have not operated the full control period four years prior to the control period for which the allocation is being made.

c) The Agency will establish a NSSA ~~new source set aside~~ for each control period. Each NSSA ~~new source set aside~~ will be allocated allowances equal to:

1) 5% of the EGU trading budget in 2004, 2005, and 2006, which is 1,535 allowances, subject to adjustment to reflect additions or deletions to the EGU trading budget;

2) 2% of the EGU of the trading budget in 2007 and thereafter, which is 614 allowances, subject to adjustment to reflect additions or deletions to the EGU trading budget.

3) As of April 30 of the applicable year, beginning in 2009 and thereafter, if the number of allowances in the NSSA ~~new source set-aside~~ is greater than or equal to 3% of the total number of tons of NO_x emissions in the trading budget apportioned to budget EGUs, which is 921 allowances, subject to adjustment to reflect additions or deletions to the EGU trading budget, pursuant to subsections (i) and (j) of this Section, the number of allowances above 3% will be allocated to budget EGUs receiving allowances pursuant to Section 217.764 of this Subpart~~Part~~. These allowances shall be allocated on a pro-rata basis according to heat input. If there are insufficient allowances to allocate a whole allowance to existing budget units under Section 217.764, such allowances shall be retained by the Agency in the NSSA until the next control period. Such allowances shall be available for allocation to new units. If after any annual allocation

to new units then the Agency shall allocate these allowances to existing units pursuant to the provisions of this subsection.

d) The account representative of a "new" budget EGU under subsection (a) of this Section may obtain allowances from the NSSA ~~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 NSSA ~~new source set-aside~~. Such request shall include, at a minimum, all data and calculations used to support the claim. Heat input data shall be submitted with the request in an electronic spreadsheet or EDR format. The allocation request for each applicable control period must be submitted after the date on which the Agency issues a construction permit to the budget EGU and by February 15 before ~~March 1~~ ~~of~~ the control period for which the allocation is requested.

e) In an allocation request under subsection (d) of this Section, the account representative may request 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. The projected heat input shall be determined as set forth below, divided by 2000 lbs/ton:

1) For "new" budget EGUs that have heat input from at least three control periods prior to the allocation year, the average of the budget EGU's two highest seasonal heat inputs from the control periods one to three years prior to the allocation year;

2) For "new" budget EGUs that have heat input from only two control periods prior to the allocation year, the average of the budget EGU's seasonal heat inputs from the control periods one and two years prior to the allocation year;

3) For "new" budget EGUs that commence commercial operation on or prior to July 16th of the control period prior to the allocation year and 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 EGUs that ~~have~~ commence ~~commenced~~ commercial operation after July 16th of the control period prior to the allocation year ~~but have not operated for at least 77 days of the control period prior to the allocation year~~, the budget EGU's maximum design heat input for the control period as designated in the construction permit. Notwithstanding the provisions of this subsection, a new budget EGU will receive allocations based on its maximum design heat input for only one control period; subsequent allocations will be based on its heat input for the prior control period or periods.

f) Beginning in 2005 ~~2007~~, the Agency will review and allocate allowances pursuant to each allocation request, contingent upon receiving payment ~~pursuant to subsection (k) of this Section, by April~~ 15 ~~of the applicable year~~as provided for in 35 Ill. Adm. Code 273.140, as follows:

1) Upon receipt of the allocation request, the Agency will determine whether the request is consistent with the requirements of subsections (d) and (e) of this Section and will make any necessary adjustments to the request to ensure that the control period and the number of allowances requested are consistent with those requirements of subsections (d) and (e) of this Section.

2) If the NSSA ~~new source set-aside~~ for the control period for which allowances are requested has a number of allowances greater than or equal to the total number requested by all "new" budget EGUs, the Agency will allocate the number of allowances requested, as adjusted per subsection (f)(1) of this Section, to the "new" budget EGUs.

3) If the NSSA ~~new source set-aside~~ for the control period for which allowances are requested has a number of allowances less than the total number of allowances requested by all "new" budget EGUs, the Agency will allocate the available allowances to the "new" budget EGUs on a pro-rata basis, based on the number of allowances requested, as adjusted per subsection (f)(1) of this Section,.

g) Notwithstanding subsection (f) of this section, f~~F~~or "new" budget EGUs that commenced commercial operation on or after January 1, 1995, but prior to January 1, 2004, the Agency will notify the account representative of the number of allowances that have been allocated to the "new" budget EGU by April 7 ~~March 30~~ of the applicable year. There will be no charge for allowances received under this subsection.

h) For "new" budget EGUs that commence ~~commenced~~ commercial operation on or after January 1, 2004, the Agency will sell allowances from the NSSA as provided for in 35 Ill. Adm. Code 273. ~~notify by March30of the applicable year the account representative of the number of allowances that are eligible for purchase for the "new" budget EGU pursuant to the requirements of subsection (k) of this Section. If the Agency does not receive payment by April 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 EGUs that received allocations pursuant to subsection (f)(2) of this Section, up to the number of allowances requested by each account representative. Such additional allocations are subject to the purchase requirements of subsection (k) of this Section, to the extent applicable.~~

i) For 2004 only, "new" budget EGUs that ~~have~~ commenced commercial operation after July 16, 2003 ~~but have operated for 76 or fewer days of the control period in 2003~~, USEPA will deduct allowances to account for the actual utilization of the EGU during the 2004 control period consistent with the provisions of 40 CFR 96.42(e). Any allowances allocated by the Agency for such "new" budget EGUs that are not used for compliance during the 2004 control period shall be returned to the Agency's NSSA ~~new source set-aside~~ account.

j) For the years 2004, 2005, and 2006, any allowances that are not allocated pursuant to subsections (g), (h) and (i) of this Section will be allocated on a pro-rata basis according to heat input. to the budget EGUs listed in Appendix F of this Part. There will be no charge for allowances received under this subsection. If there are insufficient allowances to allocate a whole allowance to existing budget units under Section 217.764, such allowances shall be retained by the Agency in the NSSA until the next control period. Such allowances shall be available for allocation to new units. If after any annual allocation to new units then the Agency shall allocate these allowances to existing units pursuant to the provisions this subsection for the 2006 control period and subsection (c)(3) of this Section for the 2007 control period and thereafter.

k) Fees for NSSA ~~new source set-aside~~ allowances:

1) "New" budget EGUs that commence commercial operation on or after January 1, 2004, that obtain allowances allocated from the NSSA ~~new source set-aside~~ shall pay for such allocations pursuant to Section 9.9 of the Act.

2) The price of allowances from the NSSA ~~new source set-aside~~ shall be ~~:~~

~~A)~~ ~~T~~the average price at which NO_x allowances are traded in the interstate NO_x Trading Program for the preceding control period pursuant to the procedures in 35 Ill. Adm. Code 273~~; and~~

~~B) For 2004 only, the price shall be the average price at which NO_x 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 EGUs receiving allowances pursuant to Section 217.764 of this Part on the basis of allocated allowances subject to Agency administrative costs assessed pursuant to Section 9.9 of the Act.

l) A "new" budget EGU will become an existing budget EGU and will receive allowances pursuant to the requirements of Section 217.764 of this Part, as follows:

1) For a budget EGU that commences commercial operation between and including January 1, 1995, and April 30, 2003, the budget EGU will be allocated allowances in 2004 for the 2007 control period and will become an existing budget EGU on May 1, 2007.

2) For a budget EGU that commences commercial operation after April 30, 2003, the budget EGU will become an existing budget EGU in the control period for which it receives an allocation pursuant to Section 217.764 of this Part. It will be considered a "new" budget EGU and will receive its allowances from the NSSA ~~new source set-aside~~ in the intervening years from start-up until it receives allocations pursuant to Section 217.764 of this Part.

~~BOARD NOTE: Because of litigation involving the NO_x SIP Call, Michigan v. EPA, No. 98-1497 2000 WL-180650 (D.C. Cir. March 3, 2000), the years defining the control periods may change. Should this occur, other dates in this Section will be considered to adjust as necessary.~~

(Source: Amended at ____ Ill. Reg. _______, effective ______________________)

Section 217.770 Early Reduction Credits for Budget EGUs

If a budget EGU reduces its NO_x emission rate as required by the applicable provisions of subsection (c) of this Section in the 2001, 2002, or 2003 control period, for use in the 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 EGU in accordance with the following:

a) Each budget EGU for which the account representative requests any ERCs under subsection (d) of this Section shall monitor NO_x 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 reductions made in the 2001 control period, the budget EGU must have implemented the applicable monitoring for the 2000 control period. The unit's monitoring system availability shall be not less than 90% during the control period prior to the control period in which the NO_x emissions reduction is made and the unit must be in compliance with any applicable State or federal emissions or emissions-related requirements.

b) The NO_x 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 EGU for which ERCs are requested under subsection (d) of this Section must have reduced its NO_x emission rate for each control period for which ERCs are requested, as follows:

1) For budget EGUs subject to the requirements of Title IV of the CAA and not included in a NO_x averaging plan pursuant to 40 CFR 72 and 76, as incorporated by reference in Section 217.104 of this Part, at least 30% less than the NO_x emission rate specified in the applicable Title IV permit or other applicable federally enforceable permit.

2) For budget EGUs subject to the requirements of Title IV of the CAA and included in a NO_x averaging plan pursuant to 40 CFR 72 and 76, at least 30% less than the annual emission rate required in the NO_x averaging plan in the applicable Title IV permit or other applicable federally enforceable permit.

3) For budget EGUs not subject to the requirements of Title IV of the CAA, at least 30% less than the actual NO_x emissions rate (lbs/mmbtu) for the 2000 control period.

d) The account representative of a budget EGU that meets the requirements of subsections (a) through (c) of this Section may submit to the Agency a request for ERCs for a EGU based on NO_x emission rate reductions made by the EGU in control periods 2001, 2002, and 2003, in accordance with subsection (c) of this Section.

1) The number of ERCs for any applicable control period shall be an amount equal to the unit's heat input for such control period multiplied by the difference between the EGU's NO_x emission rate (meeting the requirements of subsection (c) of this Section for the applicable control period) and the EGU's actual NO_x 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 EGU may be deposited in the source's general or overdraft account rather than in the unit's compliance account.

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) (reserved)~~In the event that the date for implementing the NO_x 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_x SIP Call (63 Fed. Reg. 57356).~~

f) The Agency will allocate ERCs to the budget EGUs 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 at least 15,261 ERCs over three years, as follows:

A) If USEPA has approved this Subpart as a SIP revision, not more than one-half of the total ERC allowances for reductions made in the control period in 2001;

B) Not more than one-half of the total ERC allowances for reductions made in the control period in 2002; and

C) Any ERC allowances not allocated pursuant to subsection (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) of this Section, the Agency will allocate to each budget EGU one allowance for each accepted ERC request;

4) If the number of ERC allowances requested for a reduction achieved in the control period in 2003 is greater than the number of ERC allowances designated for that control period in subsection (f) (2)(A) of this Section, the Agency will allocate to each budget EGU 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 EGU 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 additional 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 later control periods authorized by USEPA.

j) ERC allowances are treated as banked allowances in 2004 and later control periods authorized by USEPA for the purposes of 40 CFR 96.55(a) and (b).

(Source: Amended at ____ Ill. Reg. _______, effective ______________________)

Section 217.774 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 budget opt-in unit if it:

1) Is not a budget EGU under Section 217.754 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;

~~5) Is not covered by the low-emitter exemption under Section 217.754(c) of this Part;~~ and

5~~6~~) Is not located at a source listed in Appendix D of this Part.

b) Except as otherwise provided in this Part, a budget opt-in unit shall be treated as a budget EGU 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 EGUs, it shall have the same account representative as those budget EGUs.

2) If the opt-in unit is not located at the same source as one or more budget EGUs, 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 217.778(f) of this Part, submit to the Agency:

1) A budget permit application for the unit that:

A) Meets the requirements under Section 217.758 of this Part; and

B) Contains provisions for a change in the regulatory status of the unit to a budget opt-in unit under Section 217.754 of this Part pursuant to the provisions of Section 217.780(b) of this Part.

2) A monitoring plan for the unit in accordance with 40 CFR 96, subpart H.

(Source: Amended at ____ Ill. Reg. _______, effective ____________________)

217.Appendix D Non-Electrical Generating Units

COMPANY ID # / NAME	UNIT DESIGNATION	UNIT DESCRIPTION
1	2	3
A. E. STALEY MANUFACTURING COMPANY		
115015ABX	96020099299 ~~85070061299~~	COAL-FIRED BOILER 1
115015ABX	96020099299 ~~85070061299~~	COAL-FIRED BOILER 2

115015ABX	96020099129 ~~73020084129~~	BOILER #25

ARCHER DANIELS MIDLAND COMPANY (DECATUR COMPLEX) ~~CO EAST PLANT~~

115015AAE	85060030081	COAL-FIRED BOILER 1
115015AAE	85060030081	COAL-FIRED BOILER 2
115015AAE	85060030081	COAL-FIRED BOILER 3
115015AAE	85060030082	COAL-FIRED BOILER 4
115015AAE	85060030082	COAL-FIRED BOILER 5
115015AAE	85060030082	COAL-FIRED BOILER 6
115015AAE	85060030083	GAS-FIRED BOILER 7
115015AAE	85060030083	GAS-FIRED BOILER 8

FLINT HILLS RESOURCES, LP (JOLIET FACILITY)

197800ABZ	960100250119	CB-706

CORN PRODUCTS INTERNATIONAL, INC. (ARGO MANUFACTURING FACILITY)

031012ABI	96010009160 ~~91020069160~~	UTILITIES – BOILER #6(A23-144)~~COAL FIRED BOILER 6~~
031012ABI	96010009041 ~~73020146041~~	UTILIES – BOILER #1(A23-92)~~BOILER SERIAL 15813~~
031012ABI	96010009042 ~~73020146042~~	UTILITIES – BOILER #2(A-23-92)~~BOILER SERIAL 15812~~
031012ABI	96010009043 ~~73020146043~~	UTILITES – BOILER #4(A-23-132)~~GAS FIRED BOILER NO 4~~
031012ABI	96010009045 ~~73020147045~~	UTILIES – BOILER #3(A-23-93)~~BOILER SERIAL 18345~~
031012ABI	96010009046 ~~73020147046~~	UTILITIES – BOILER #5(A-23-93)~~GAS FIRED BOILER NO 5~~

NAVAL TRAINING CENTER/GREAT LAKES ~~NAVAL STATION~~

097811AAC	95120330011 ~~78080071011~~	BOILER # 5
097811AAC	95120330011 ~~78080071011~~	BOILER # 6

~~INDIAN REFINING LIMITED PARTNERSHIP~~

~~101805AAC~~	~~72110297015~~	~~BOILER 18601~~
~~101805AAC~~	~~72110297016~~	~~BOILER 18602~~
~~101805AAC~~	~~72110297017~~	~~BOILER 18603~~

JEFFERSON SMURFIT CORPORATION

119010AAL	72120426001	BLR 7-COAL FIRED

CHICAGO COKE

031600AMC	96030032091	BOILER 4B

MARATHON ASHLAND PETROLEUM COMPANY, LLC~~OIL CO ILLINOIS REFINING DIVISION~~

033808AAB	96010007055 ~~72111291055~~	BOILER #3 OIL, REF GAS FIRED
033808AAB	96010007056 ~~72111291056~~	BOILER #4 REF GAS, OIL FIRED

EXXONMOBIL OIL CORPORATION (JOLIET FACILITY)~~REFINING CORP~~

197800AAA	95120304002 ~~72110567002~~	AUX BOILER-REFINERY GAS FULL FIRE IF COGEN DOWN
197800AAA	95120304043 ~~386010009043~~	STATIONARY GAS TURBINE

AVENTINE RENEWABLE ENERGY, INC.~~PEKIN ENERGY COMPANY~~

179060ACR	96030001019 ~~73020087019~~	BOILER C – PULVERIZED WET BOTTOM, WALL FIRED

MORRIS COGENERATION LLC~~QUANTUM – USI DIVISION~~

063800AAJ~~C~~	99110011001 ~~72100016013~~	BOILER # 1
063800AAJ~~C~~	99110011002 ~~72100016013~~	BOILER # 2
063800AAJ~~C~~	99110011003 ~~72100016014~~	#3 GAS FIRED BOILER
063800AAJ~~C~~	99110011004 ~~72100016016~~	#5 GAS FIRED BOILER
063800AAJ~~C~~	99110011005 ~~72100016017~~	#6 BOILER

TRIGEN-CINERGY SOLUTIONS OF TUSCOLA, LLC~~QUANTUM – USI DIVISION~~

041030ABG~~041804AAB~~	0101003801 ~~72121207108~~	BOILER NO 1
041030ABG~~041804AAB~~	0101003806 ~~72121207109~~	BOILER NO 2
041030ABG~~041804AAB~~	010103807 ~~72121207110~~	BOILER NO 3
041030ABG~~041804AAB~~	0101003808 ~~72121207111~~	BOILER NO 4
~~041804AAB~~	~~72121207112~~	~~BOILER NO 5~~

CONOCOPHILLIPS CO. ~~SHELL OIL CO~~ (WOOD RIVER REFINERY) ~~MFG COMPLEX~~

119090AAA	95120306080 ~~72110633080~~	BOILER NO 15
119090AAA	95120306081 ~~72110633081~~	BOILER NO 16
119090AAA	95120306082 ~~72110633082~~	BOILER NO 17

UNITED STATES~~U S~~ STEEL CORPORATION~~-~~ (SOUTH WORKS)

031600ALZ	96030055013 ~~82010044013~~	NO. 6 BOILER, #5 POWER STATION (FUEL-NAT.GAS)
031600ALZ	96030055014 ~~82010044014~~	NO 1 BLR NG

~~UNIV OF ILL - ABBOTT POWER PLANT~~

~~019010ADA~~	~~82090027006~~	~~BOILER #7 (265 MBTU)~~

CITGO PETROLEUM CORPORATION ~~UNO-VEN COMPANY~~

197090AAI	96030079037 ~~72110253037~~	BOILER 430-B-1

BUNGE MILLING, INC.

183020ABT	72121262091	CFB BOILER

(Source: Amended at ____ Ill. Reg. _______, effective ____________________)

Section 217.Appendix E Large 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 COMPANY

115015ABX	96020099299 ~~85070061299~~	COAL-FIRED BOILER 1	175~~176~~	170~~171~~
115015ABX	96020099299 ~~85070061299~~	COAL-FIRED BOILER 2	175	170
115015ABX	96020099129 ~~73020084129~~	BOILER #25	125	121
A. E. STALEY MANUFACTURING COMPANY (Total Allocation)			475~~476~~	461~~462~~

ARCHER DANIELS MIDLAND COMPANY (DECATUR COMPLEX) ~~EAST PLANT~~

115015AAE	85060030081	COAL-FIRED BOILER 1	237~~238~~	230~~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 COMPANY (DECATUR COMPLEX) ~~EAST PLANT~~ (Total Allocation)			1,665~~1,666~~	1,615~~1,616~~

FLINT HILLS RESOURCES, LP (JOLIET FACILITY)

197800ABZ	960100250119	CB-706	6	6
FLINT HILLS RESOURCES, LP (JOLIET FACILITY) (Total Allocation)			6	6

CORN PRODUCTS INTERNATIONAL, INC. (ARGO MANUFACTURING FACILITY)

031012ABI	96010009160 ~~91020069160~~	GAS-FIRED BOILER 6	55	53
031012ABI	96010009041 ~~73020146041~~	BOILER # 1 COAL-FIRED	209~~210~~	203~~204~~
031012ABI	96010009042 ~~73020146042~~	BOILER # 2 COAL-FIRED	210	203
031012ABI	96010009043 ~~73020146043~~	GAS FIRED BOILER NO 4 WEST STACK BLRS	81	79
031012ABI	96010009045 ~~73020147045~~	BOILER # 3 COAL-FIRED	211	205
031012ABI	96010009046 ~~73020147046~~	GAS FIRED BOILER NO 5-EAST STACK BOILER	81	79
CORN PRODUCTS INTERNATIONAL, INC. (ARGO MANUFACTURING FACILITY) (Total			847~~848~~	822~~823~~

Allocation)				

NAVAL TRAINING CENTER/GREAT LAKES ~~NTC~~

097811AAC	95120330011 ~~78080071011~~	BOILER # 5	26	25
097811AAC	95120330011 ~~78080071011~~	BOILER # 6	26	25
NAVAL TRAINING CENTER/GREAT LAKES ~~NTC~~ (Total Allocation)			52	50

JEFFERSON SMURFIT CORPORATION

119010AAL	72120426001	BLR 7-COAL FIRED	39	38
JEFFERSON SMURFIT CORPORATION (Total Allocation)			39	38

MARATHON ASHLAND PETROLEUM COMPANY, LLC~~OIL CO ILLINOIS REFINING DIV~~

033808AAB	96010007055~~721 11291055~~	BOILER #3 OIL,REF GAS FIRED	53	51
033808AAB	96010007056~~721 11291056~~	BOILER #4 REF GAS,OIL FIRED	53	52
MARATHON OIL COMPANY, LLC~~CO ILLINOIS REFINING DIV~~ (Total Allocation)			106	103

EXXONMOBIL OIL CORPORATION (JOLIET REFINERY)

197800AAA	95120304002~~721 10567002~~	AUX BOILER-REFINERY GAS	101	98
197800AAA	95120304043~~860 10009043~~	STATIONARY GAS TURBINE	85	82
EXXON MOBIL OIL CORPORATION (JOLIET REFINERY) (Total Allocation)			186	180

AVENTINE RENEWABLE ENERGY, INC~~WILLIAMS~~

179060ACR	73020087019	BOILER C - PULVERIZED DRY BOTTOM	376~~377~~	365~~366~~
AVENTINE RENEWABLE ENERGY, INC~~WILLIAMS~~ (Total Allocation)			376~~377~~	365~~366~~

MORRIS COGENRATION, LLC~~EQUISTAR~~

063800AAJ~~C~~	99110011001~~72 100016013~~	BOILER # 1	39~~40~~	38~~39~~

063800AAJ~~C~~	99110011002~~72~~ ~~100016013~~	BOILER # 2	40	39
063800AAJ~~C~~	99110011003~~72~~ ~~100016014~~	#3 GAS FIRED BOILER	40	39
063800AAJ~~C~~	99110011004~~72~~ ~~100016016~~	#5 GAS FIRED BOILER	40	39
063800AAJ~~C~~	99110011005~~72~~ ~~100016017~~	#6 BOILER	40	39
MORRIS COGENERATION, LLC ~~EQUISTAR~~ (Total Allocation)			199~~200~~	193~~194~~

TRIGEN-CINERGY SOLUTIONS OF TUSCOLA, LLC~~EQUISTAR CHEMICALS LP~~

041030ABG ~~041804AAB~~	96020121108~~721~~ ~~21207108~~	BOILER NO 1	120~~121~~	117~~118~~
041030ABG ~~041804AAB~~	96020121109~~721~~ ~~21207109~~	BOILER NO 2	121	118
041030ABG ~~041804AAB~~	96020121110~~721~~ ~~21207110~~	BOILER NO 3	121	117
041030ABG ~~041804AAB~~	9602012111~~7212~~ ~~1207111~~	BOILER NO 4	120	116
~~041804AAB~~	~~72121207112~~	~~BOILER NO 5~~	~~0~~	~~0~~
TRIGEN-CINERGY SOLUTIONS OF TUSCOLA, LLC~~EQUISTAR~~ (Total Allocation)			482~~483~~	468~~469~~

CONOCOPHILLIPS COMPANY (WOOD RIVER REFINERY)~~TOSCO~~

119090AAA	9512030680~~7211~~ ~~0633080~~	BOILER NO 15	40	38
119090AAA	9512030681~~7211~~ ~~0633081~~	BOILER NO 16	40	39
119090AAA	95120306082~~721~~ ~~10633082~~	BOILER NO 17	80	78
CONOCOPHILLIPS COMPANY (WOOD RIVER REFINERY)~~TOSCO~~ (Total Allocation)			160	155

UNITED STATES ~~U S~~ STEEL – CORPORATION(SOUTH WORKS)

031600ALZ	82010044013	NO. 6 BOILER,#5 POWER STATION (FUEL-NAT.GAS)	90	88
031600ALZ	82010044014	NO 1 BLR NG	90	87
UNITED STATES ~~U S~~ STEEL CORPORATION– (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

**CHICAGO COKE~~LTV STEEL COMPANY~~

031600AMC	96030032091	BOILER NO 4B	60	58
CHICAGO COKE~~LTV STEEL COMPANY~~ (Total Allocation)			60	58

~~* Pursuant to Section 217.460(f), Column 2, Column 4 and Column 5 will be adjusted at such time as USEPA makes an allocation for LTV Steel's Boiler No. 4B.~~

**The first control period that Chicago Coke will receive a allocation for is 2007.

*BUNGE MILLING, INC.

183020ABT	72121262091	CFB BOILER	*	*
BUNGE MILLING, INC. Total Allocation)				

* Pursuant to Section 217.460(e), Column 4 and Column 5 will be adjusted when USEPA makes an allocation for Bunge's CFB Boiler.

GRAND TOTAL	4,856~~4,882~~	4,711~~4,736~~

(Source: Amended at ____ Ill. Reg. _______, effective ______________________)

Section 217.Appendix F Allowances for Electrical Generating Units

Company Name/ ID #	Generating Unit Designation	EGU Designation	NO_x Budget Allowances	80% of NO_x Budget Allowances	50% of NO_x Budget Allowances	2004, 2005, 2006 Allowances	2007, 2008 Allowances	2009, 2010 Allowances
1	2	3	4	5	6	7	8	9
Company Totals			No NSSA	No NSSA	No NSSA	5% NSSA	2% NSSA	2% NSSA

Ameren Energy Generating Company (AERG)

135803AAA	Coffeen 1	Coffeen 1	550	440	275	523	431	270

135803AAA	Coffeen 2	Coffeen 2	945	756	473	898	741	463
077806AAA	G. Tower 3	Boiler 7	55	44	28	52	43	27
077806AAA	G. Tower 3	Boiler 8	44	35	22	42	35	22
077806AAA	G. Tower 4	Boiler 9	199	159	100	189	156	98
033801AAA	Hutsonville 3	Boiler 5	161	129	81	153	126	79
033801AAA	Hutsonville 4	Boiler 6	129	103	65	123	101	63
137805AAA ~~135805AAA~~	Meredosia 1	Boiler 1	33	26	17	31	26	16
137805AAA ~~135805AAA~~	Meredosia 1	Boiler 2	23	18	12	22	18	11
137805AAA ~~135805AAA~~	Meredosia 2	Boiler 3	23	18	12	21	18	11
137805AAA ~~135805AAA~~	Meredosia 2	Boiler 4	28	22	14	27	22	14
137805AAA ~~135805AAA~~	Meredosia 3	Boiler 5	432	346	216	410	339	212
137805AAA ~~135805AAA~~	Meredosia 4	Boiler 6	28	22	14	27	22	13
079808AAA	Newton 1	Newton 1	1,101	881	551	1,046	863	539
079808AAA	Newton 2	Newton 2	1,074	859	537	1,020	842	526
AERG~~Ameren Eng. Gen. Co.~~ Totals			4,825	3,860	2,413	4,584	3,783	2,364

AmerenEnergy Resources Generating Company (AERG)~~AES~~

057801AAA	D. Creek	D. Creek	914	731	457	868	717	448
143805AAG	Edwards 1	Edwards 1	251	201	126	239	197	123
143805AAG	Edwards 2	Edwards 2	368	294	184	350	288	180
143805AAG	Edwards 3	Edwards 3	655	524	328	622	513	321
AERG~~AES~~ Totals			2,188	1,750	1,094	2,079	1,715	1,072

City of Springfield - City Water Light and Power ~~CWLP~~

167120AAO	Dallman 1	Boiler 31	141	113	71	134	111	69
167120AAO	Dallman 2	Boiler 32	202	162	101	192	158	99
167120AAO	Dallman 3	Boiler 33	474	379	237	450	372	232
167120AGQ	G. Turbine #2	G. Turbine #2	91	73	46	86	71	45
167120AAO	Lakeside 7	Lakeside 7	47	38	24	45	37	23
167120AAO	Lakeside 8	Lakeside 8	42	34	21	40	33	21
City of Springfield - City Water Light and Power ~~CWLP~~ Totals			997	798	499	947	782	489

Midwest Generation LLC

~~063806AAF~~	~~Collins 1~~	~~Collins 1~~	~~302~~	~~242~~	~~151~~	~~287~~	~~237~~	~~148~~
~~063806AAF~~	~~Collins 2~~	~~Collins 2~~	~~305~~	~~244~~	~~153~~	~~290~~	~~239~~	~~150~~
~~063806AAF~~	~~Collins 3~~	~~Collins 3~~	~~469~~	~~375~~	~~235~~	~~446~~	~~368~~	~~230~~
~~063806AAF~~	~~Collins 4~~	~~Collins 4~~	~~290~~	~~232~~	~~145~~	~~275~~	~~227~~	~~142~~
~~063806AAF~~	~~Collins 5~~	~~Collins 5~~	~~458~~	~~366~~	~~229~~	~~435~~	~~359~~	~~224~~
031600AIN	Crawford 7	Crawford 7	365	292	183	347	286	179
031600AIN	Crawford 8	Crawford 8	463	370	232	440	363	227
031600AMI	Fisk 19	Fisk 19	523	418	262	497	410	256
031600AMI	Fisk Peaker	GT 31-1	9	7	5	9	7	4
031600AMI	Fisk Peaker	GT 31-2	9	7	5	9	7	4
031600AMI	Fisk Peaker	GT 32-1	9	7	5	9	7	4
031600AMI	Fisk Peaker	GT 32-2	9	7	5	9	7	4
031600AMI	Fisk Peaker	GT 33-1	9	7	5	8	7	5
031600AMI	Fisk Peaker	GT 33-2	9	7	5	8	7	5
031600AMI	Fisk Peaker	GT 34-1	9	7	5	8	7	5
031600AMI	Fisk Peaker	GT 34-2	9	7	5	8	7	5
197809AAO	Joliet 6	Boiler 5	119	95	60	113	93	58
197809AAO	Joliet 7	Boiler 71	455	364	228	432	357	223
197809AAO	Joliet 7	Boiler 72	709	567	355	673	556	347
197809AAO	Joliet 8	Boiler 81	748	598	374	711	587	367
197809AAO	Joliet 8	Boiler 82	497	398	249	472	390	244
179801AAA	Powerton 5	Boiler 52	2,563 ~~739~~	2,050 ~~591~~	1,283 ~~370~~	2,435 ~~702~~	2,009 ~~579~~	1,256 ~~362~~
179801AAA	Powerton 5	Boiler 51	739	591	370	702	579	362
179801AAA	Powerton 6	Boiler 61	739	591	370	702	579	362
179801AAA	Powerton 6	Boiler 62	739	591	370	702	579	362
097190AAC	Waukegan 6	Boiler 17	199	159	100	189	156	98

097190AAC	Waukegan 7	Waukegan 7	376	301	188	357	295	184
097190AAC	Waukegan 8	Waukegan 8	667	534	334	634	523	327
097190AAC	Peaker	GT 31-1	5	4	3	4	4	2
097190AAC	Peaker	GT 31-2	5	4	3	5	4	2
097190AAC	Peaker	GT 32-1	5	4	3	5	4	3
097190AAC	Peaker	GT 32-2	5	4	3	5	4	3
197810AAK	Will County 1	Will County 1	364	291	182	346	285	178
197810AAK	Will County 2	Will County 2	354	283	177	336	278	173
197810AAK	Will County 3	Will County 3	449	359	225	427	352	220
197810AAK	Will County 4	Will County 4	766	613	383	728	601	375
Midwest Generation, LLC Totals			11,926	9,541	5,963	11,330	9,350	5,844

Kincaid Generation, LLC~~Dom. Energy~~

021814AAB	Kincaid 1	Kincaid 1	792	634	396	752	621	388
021814AAB	Kincaid 2	Kincaid 2	873	698	437	829	684	428
Kincaid Generation, LLC~~Dom. Energy~~ Totals			1,665	1,332	833	1,581	1,305	816

Electric~~El.~~ Energy Inc.

127855AAC	Joppa 1	Joppa 1	481	385	241	457	377	236
127855AAC	Joppa 2	Joppa 2	515	412	258	489	404	252
127855AAC	Joppa 3	Joppa 3	513	410	257	487	402	251
127855AAC	Joppa 4	Joppa 4	384	307	192	365	301	188
127855AAC	Joppa 5	Joppa 5	463	370	232	440	363	227
127855AAC	Joppa 6	Joppa 6	524	419	262	498	411	257
Electric~~El.~~ Energy Inc. Totals			2,880	2,304	1,440	2,736	2,258	1,411

Dynegy Midwest Generation (DMG)

157851AAA	Baldwin 1	Baldwin 1	1,114	891	557	1,058	873	546
157851AAA	Baldwin 2	Baldwin 2	931	745	466	884	730	456
157851AAA	Baldwin 3	Baldwin 3	1,318	1,054	659	1,252	1,034	646
125804AAB	Havana 1-5	Boiler 1	0	0	0	0	0	0
125804AAB	Havana 1-5	Boiler 2	0	0	0	0	0	0
125804AAB	Havana 1-5	Boiler 3	0	0	0	0	0	0

125804AAB	Havana 1-5	Boiler 4	0	0	0	0	0	0
125804AAB	Havana 1-5	Boiler 5	0	0	0	0	0	0
125804AAB	Havana 1-5	Boiler 6	0	0	0	0	0	0
125804AAB	Havana 1-5	Boiler 7	0	0	0	0	0	0
125804AAB	Havana 1-5	Boiler 8	0	0	0	0	0	0
125804AAB	Havana 6	Boiler 9	547	438	274	520	429	268
155010AAA	Hennepin 1	Hennepin 1	149	119	75	142	117	73
155010AAA	Hennepin 2	Hennepin 2	540	432	270	513	423	265
183814AAA	Vermilion 1	Vermilion 1	17	14	9	16	13	8
183814AAA	Vermilion 2	Vermilion 2	31	25	16	30	24	15
119020AAE	Wood River 1	Wood River 1	0	0	0	0	0	0
119020AAE	Wood River 2	Wood River 2	0	0	0	0	0	0
119020AAE	Wood River 3	Wood River 3	0	0	0	0	0	0
119020AAE	Wood River 4	Wood River 4	219	175	110	208	172	107
119020AAE	Wood River 5	Wood River 5	714	571	357	678	560	350
DMG Totals			5,580	4,464	2,790	5,301	4,375	2,734

Southern Illinois Power Cooperative~~SIPCO~~

199856AAC	Marion 1	Marion 1	14	11	7	13	11	7
199856AAC	Marion 2	Marion 2	10	8	5	10	8	5
199856AAC	Marion 3	Marion 3	30	24	15	29	23	15
199856AAC	Marion 4	Marion 4	511	409	256	485	401	250
Southern Illinois Power Cooperative~~SIPCO~~ Totals			565	452	283	537	443	277

Union Electric Company

119105AAA	Turbine	Turbine	4	3	2	4	3	2
119105AAA	Venice 1	Venice 1	10	8	5	9	8	5
119105AAA	Venice 2	Venice 2	13	10	7	12	10	6

119105AAA	Venice 3	Venice 3	6	5	3	6	5	3
119105AAA	Venice 4	Venice 4	7	6	4	7	5	4
119105AAA	Venice 5	Venice 5	15	12	8	14	12	7
119105AAA	Venice 6	Venice 6	16	13	8	15	13	8
119105AAA	Venice 7	Venice 7	2	2	1	2	1	1
119105AAA	Venice 8	Venice 8	2	2	1	2	2	1
Union Electric Company Totals			75	60	38	71	59	37

TOTAL	30,701	24,561	15,351	29,166	24,070	15,044

(Source: Amended at ____ Ill. Reg. _______, effective ____________________)

f:\wp\nox\nox217\part217.final
January 13, 2006

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:	)	
	)	
NOx TRADING PROGRAM:	)	**R06-**
AMENDMENTS TO 35 ILL.	)	**(Rulemaking - Air)**
ADM. CODE PART 217	)	

PROOF OF SERVICE

I, the undersigned, on oath state that I have served the attached REGULATORY PROPOSAL FOR NOx TRADING PROGRAM: AMENDMENTS TO 35 ILL. ADM. CODE PART 217, APPEARANCE and MOTION FOR WAIVER OF REQUIREMENTS of the Illinois Environmental Protection Agency upon the person to whom it is directed, by placing it in an envelope addressed to:

TO:

Dorothy Gunn, Clerk
Illinois Pollution Control Board
State of Illinois Center
100 West Randolph, Suite 11-500
Chicago, Illinois 60601

Matthew Dunn, Chief
Attorney General's Office
James R. Thompson Center
100 West Randolph, 12th Floor
Chicago, Illinois 60601

SEE ATTACHED SERVICE LIST

and mailing it by First Class Mail from Springfield, Illinois on January 17, 2006 with sufficient postage affixed.

Sharon Riebner

SUBSCRIBED AND SWORN TO BEFORE ME

this 17th day of January, 2006

Cynthia L. Wolfe
Notary Public

OFFICIAL SEAL
CYNTHIA L. WOLFE
NOTARY PUBLIC, STATE OF ILLINOIS
MY COMMISSION EXPIRES 3-20-2007

SERVICE LIST R-06

Dave Tomlinson
AES Duck Creek
17751 N. CILCO Road
Canton, Illinois 61520

Pat Dennis
Archer Daniels Midland - Decatur Complex
4666 Faries Parkway
P. O. Box 1470
Decatur, Illinois 62526

Bill Constantelos
Midwest Generation EME, LLC
One Financial Place
440 S LaSalle Street, Suite 3500
Chicago, Illinois 60605

Steve Witworth
Ameren Energy Generating Company
1901 Chouteau Avenue
P. O. Box 66149
St. Louis, Missouri 63166-6149

Bill Murphy
CWLP
Office of Public Utilities
800 E. Monroe
Springfield, Illinois 62757

Bob Asplund
Dominion
5000 Domonion Blvd
Glen Allen, VA 23060

Scott Miller
Midwest Generation
440 S LaSalle Street, Suite 3500
Chicago, Illinois 60605

Cindy Faur
Sonnenschein Nath & Rosenthal
8000 Sears Tower
233 South Wacker
Chicago, Illinois 60606

Rick Diericx
Environmental Compliance
Dynegy Inc.
2828 North Monroe Street
Decatur, Illinois 62526-3269

Bruce Parker
Electric Energy Inc.
P. O. Box 165
Joppa, Illinois 62953

Leonard Hopkins
Southern Illinois Power Coop
11543 Lake of Egypt Road
Marion, Illinois 62959

Anu Singh
Dominion
4 Miles West of Kincaid on Rte. 104
Kincaid, Illinois 62540

Jim Monk
Illinois Energy Association
1 W Old Ste Capitol Plaza, Room 509
Springfield, Illinois 62701

Mark Schultz
Naval Training Center
201 Decatur Avenue
Great Lakes, Illinois 60088-5600

Neal Sahni
ConcoPhillips Co
900 S Central Avenue
Roxana, Illinois 62084

Steve Antonacci
Aventine Renewable Energy, Inc.
1300 S Second Street
Pekin, Illinois 61554

CON'T SERVICE LIST R-06

Claude Harmon
CITGO Petroleum Corp
135th St and New Ave
Lemont, Illinois 60439

Cindy Johnson
Flint Hills Resources
23425 Amoco Road
Channahon, Illinois 60410

John Zaborske
US Steel - South Works
3426 E 89th Street
Chicago, Illinois 60617

Kathy Andria
ABC
P. O. Box 23484
Belleville, Illinois 62223

Alan Mayo
David Saad
Marathon Ashland Petroleum LLC
100 Marathon Avenue
Robinson, Illinois 62454

Kathleen Bassi
Schiff Hardin (Midwest Generation)
6600 Sears Towers
233 S Wacker Drive
Chicago, Illinois 60606

Shane Bradford
Trigen - Cinergy Solutions of Tuscola LLC
625 E US hwy 36
Tuscola, Illinois 61953

Alexis Cain
U. S. Environmental Protection Agency
77 West Jackson Blvd, AT18J
Chicago, Illinois 60604

Steve Szobar
Calpine (Morris) LLC
8805 N Tabler Road
Morris, Illinois 60450

Lisa Frede
Chemical Industry Council of Illinois
2250 E. Devon Avenue, Suite 239
Des Plaines, Illinois 60018

Jennifer Marshall
A E Staley Manufacturing Co
2200 E Eldorado Street
Decatur, Illinois 62521-1578

Jason Goodwin
Midwest Power Region Calpine Corporation
4100 Underwood Road
Pasadena, Texas 77507

Bert Mary
Jefferson Smurfit Corp
10 Cut Street
Alton, Illinois 62002

Jim Harrington
McGuire Woods
150 Wacker
Chicago, Illinois 60601

Bob Elvert
Brad Kohlmeyer
Exxon Mobile Oil Corp.
I-55 & Arsenal Road
P.O. Box 874
Joliet, Illinois 60434

DK Hirner
Illinois Environmental Regulatory Group
3150 Roland Avenue
Springfield, Illinois 62703

SERVICE LIST R-06

Faith Bugel
ELPC
35 E Wacker Drive
Chicago, Illinois 60601

Gail Newton
Hodge Dwyer Zeman
3150 Roland Avenue
Springfield, Illinois 62703

Heidi Hanson
4721 Franklin, Suite 1500
Western Springs, Illinois 60558

Henry Henderson
Policy Solutions
20 N Wacker, Suite 1938
Chicago, Illinois 60606

Kathy Hodge
Hodge Dwyer Zeman
3150 Roland Avenue
Springfield, Illinois 62703

Bruce Niles
Sierra Club
214 N Henry Street
Madison, WI 53707

Brian Urbaszewski
American Lung Assoc. Of Metropolitan
Chicago
1440 W Washington Blvd
Chicago, Illinois 60607

Bob Wells
Abbott Labs
1401 Sheridan Rd, Dept 05G3, Bldg,
NCP14
North Chicago, Illinois 60064-6239

Verena Owen
Illinois Sierra Club/Lake County
Conservation Alliance
421 Ravine
Winthrop Harbor, Illinois 60096

Becky Stanfield
Illinois PIRG
407 South Dearborn, Suite 701
Chicago, Illinois 60605