



## OFFICE OF THE SECRETARY OF STATE

JESSE WHITE • Secretary of State

October 7, 2011

RECEIVED  
CLERK'S OFFICE  
OCT 14 2011  
STATE OF ILLINOIS  
Pollution Control Board

POLLUTION CONTROL BOARD  
JOHN THERRIAULT ASSISTANT CLERK  
100 W RANDOLPH ST, STE 11-500  
CHICAGO, IL 60601

Dear JOHN THERRIAULT ASSISTANT CLERK

Your rules Listed below met our codification standards and have been published in Volume 35, Issue 42 of the Illinois Register, dated 10/14/2011.

### ADOPTED RULES

Nitrogen Oxides Emissions 35 Ill. Adm. Code 217 Point of Contact: Nancy Miller	16600
Hospital/Medical/Infectious Waste Incinerators 35 Ill. Adm. Code 229 Point of Contact: Nancy Miller	16615

### PROPOSED RULES

Underground Storage Tanks 35 Ill. Adm. Code 731 Point of Contact: Nancy Miller	16183
Petroleum Underground Storage Tanks (Releases Reported September 23, 1994 through June 23, 2002) (Repealer) 35 Ill. Adm. Code 732 Point of Contact: Nancy Miller	16191
Petroleum Underground Storage Tanks (Releases Reported On or After June 24, 2002) 35 Ill. Adm. Code 734 Point of Contact: Nancy Miller	16338

If you have any questions, you may contact the Administrative Code Division at (217) 782 - 7017.

Index Department - Administrative Code Division - 111 East Monroe Springfield, IL 62756

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NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Nitrogen Oxides Emissions
- 2) Code Citation: 35 Ill. Adm. Code 217
- 3) 

<u>Section Numbers:</u>	<u>Adopted Action:</u>
217.451	New
217.454	Amend
217.456	Amend
- 4) Statutory Authority: Implementing and authorized by Sections 10, 27, and 28 of the Environmental Protection Act [415 ILCS 5/10, 27, 28, and 28.5].
- 5) Effective Date of Amendments: SEP 27 2011
- 6) Does this rulemaking contain an automatic repeal date? No.
- 7) Do these amendments contain incorporations by reference? No.
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the Board's Chicago office at the James R. Thompson Center, 100 W. Randolph, Suite 11-500, and is available there for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 35 Ill. Reg. 8363; June 3, 2011
- 10) Has JCAR issued a Statement of Objections to these amendments? No.
- 11) Differences between proposal and final version: Other than non-substantive, grammatical and consistency changes proposed by JCAR, there are no differences between the Board's first notice proposal and the final version.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements letter issued by JCAR? Yes.
- 13) Will these amendments replace emergency amendments currently in effect? No.
- 14) Are there any amendments pending on this Part? No.
- 15) Summary and Purpose of Amendments: For a more detailed description of this rulemaking, please see the Board's September 22, 2011 opinion and order adopting these rules. In the Matter of: NO<sub>x</sub> Trading Program Sunset Provisions for Non-Electric

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Generating Units ("Non-EGU."): Amendments to 35 Ill. Adm. Code Part 217.Subpart U  
(September 22, 2011)

- 16) Information and questions regarding these adopted amendments shall be directed to:

Daniel Robertson  
Illinois Pollution Control Board  
100 W. Randolph 11-500  
Chicago, IL 60601  
312-814-6931

Copies of the Board's opinions and orders may be requested from the Clerk of the Board at the address listed in #8 above or by calling 312/814-3620. Please refer to the Docket number R11-08 in your request. The Board order is also available from the Board's Web site ([www.ipcb.state.il.us](http://www.ipcb.state.il.us)).

The full text of the Adopted Amendments begins on the next page:

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NOTICE OF ADOPTED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION  
SUBTITLE B: AIR POLLUTION  
CHAPTER I: POLLUTION CONTROL BOARD  
SUBCHAPTER c: EMISSION STANDARDS AND LIMITATIONS  
FOR STATIONARY SOURCES

PART 217  
NITROGEN OXIDES EMISSIONS

SUBPART A: GENERAL PROVISIONS

Section	
Section	
217.100	Scope and Organization
217.101	Measurement Methods
217.102	Abbreviations and Units
217.103	Definitions
217.104	Incorporations by Reference

SUBPART B: NEW FUEL COMBUSTION EMISSION SOURCES

Section	
217.121	New Emission Sources (Repealed)

SUBPART C: EXISTING FUEL COMBUSTION EMISSION UNITS

Section	
217.141	Existing Emission Units in Major Metropolitan Areas

SUBPART D: NO<sub>x</sub> GENERAL REQUIREMENTS

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217.150	Applicability
217.152	Compliance Date
217.154	Performance Testing
217.155	Initial Compliance Certification
217.156	Recordkeeping and Reporting
217.157	Testing and Monitoring
217.158	Emissions Averaging Plans

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Section	
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217.162	Exemptions
217.164	Emissions Limitations
217.165	Combination of Fuels
217.166	Methods and Procedures for Combustion Tuning

SUBPART F: PROCESS HEATERS

Section	
217.180	Applicability
217.182	Exemptions
217.184	Emissions Limitations
217.185	Combination of Fuels
217.186	Methods and Procedures for Combustion Tuning

SUBPART G: GLASS MELTING FURNANCES

Section	
217.200	Applicability
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SUBPART H: CEMENT AND LIME KILNS

Section	
217.220	Applicability
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SUBPART I: IRON AND STEEL AND ALUMINUM MANUFACTURING

Section	
217.240	Applicability
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SUBPART K: PROCESS EMISSION SOURCES

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217.301 Industrial Processes

SUBPART M: ELECTRICAL GENERATING UNITS

Section  
217.340 Applicability  
217.342 Exemptions  
217.344 Emissions Limitations  
217.345 Combination of Fuels

SUBPART O: CHEMICAL MANUFACTURE

Section  
217.381 Nitric Acid Manufacturing Processes

SUBPART Q: STATIONARY RECIPROCATING  
INTERNAL COMBUSTION ENGINES AND TURBINES

Section  
217.386 Applicability  
217.388 Control and Maintenance Requirements  
217.390 Emissions Averaging Plans  
217.392 Compliance  
217.394 Testing and Monitoring  
217.396 Recordkeeping and Reporting

SUBPART T: CEMENT KILNS

Section  
217.400 Applicability  
217.402 Control Requirements  
217.404 Testing  
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217.410 Recordkeeping

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

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217.450	Purpose
217.451	<u>Sunset Provisions</u>
217.452	Severability
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217.456	Compliance Requirements
217.458	Permitting Requirements
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217.462	Methodology for Obtaining NO <sub>x</sub> Allocations
217.464	Methodology for Determining NO <sub>x</sub> Allowances from the New Source Set-Aside
217.466	NO <sub>x</sub> Allocations Procedure for Subpart U Budget Units
217.468	New Source Set-Asides for "New" Budget Units
217.470	Early Reduction Credits (ERCs) for Budget Units
217.472	Low-Emitter Requirements
217.474	Opt-In Units
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SUBPART V: ELECTRIC POWER GENERATION

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217.521	Lake of Egypt Power Plant
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217.706	Emission Limitations
217.708	NO <sub>x</sub> Averaging
217.710	Monitoring
217.712	Reporting and Recordkeeping

SUBPART W: NO<sub>x</sub> TRADING PROGRAM FOR  
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217.750	Purpose
217.751	Sunset Provisions
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217.754	Applicability

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217.756	Compliance Requirements
217.758	Permitting Requirements
217.760	NO <sub>x</sub> Trading Budget
217.762	Methodology for Calculating NO <sub>x</sub> Allocations for Budget Electrical Generating Units (EGUs)
217.764	NO <sub>x</sub> Allocations for Budget EGUs
217.768	New Source Set-Asides for "New" Budget EGUs
217.770	Early Reduction Credits for Budget EGUs
217.774	Opt-In Units
217.776	Opt-In Process
217.778	Budget Opt-In Units: Withdrawal from NO <sub>x</sub> Trading Program
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SUBPART X: VOLUNTARY NO<sub>x</sub> EMISSIONS REDUCTION PROGRAM

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217.800	Purpose
217.805	Emission Unit Eligibility
217.810	Participation Requirements
217.815	NO <sub>x</sub> Emission Reductions and the Subpart X NO <sub>x</sub> Trading Budget
217.820	Baseline Emissions Determination
217.825	Calculation of Creditable NO <sub>x</sub> Emission Reductions
217.830	Limitations on NO <sub>x</sub> Emission Reductions
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217.845	Emissions Determination Methods
217.850	Emissions Monitoring
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217.860	Recordkeeping
217.865	Enforcement
217.APPENDIX A	Rule into Section Table
217.APPENDIX B	Section into Rule Table
217.APPENDIX C	Compliance Dates
217.APPENDIX D	Non-Electrical Generating Units
217.APPENDIX E	Large Non-Electrical Generating Units
217.APPENDIX F	Allowances for Electrical Generating Units
217.APPENDIX G	Existing Reciprocating Internal Combustion Engines Affected by the NO <sub>x</sub> SIP Call



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217.APPENDIX H Compliance Dates for Certain Emissions Units at Petroleum Refineries

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 R07-18 at 31 Ill. Reg. 14271, effective September 25, 2007; amended in R07-19 at 33 Ill. Reg. 11999, effective August 6, 2009; amended in R08-19 at 33 Ill. Reg. 13345, effective August 31, 2009; amended in R09-20 at 33 Ill. Reg. 15754, effective November 2, 2009; amended in R11-17 at 35 Ill. Reg. 7391, effective April 22, 2011; amended in R11-08 at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

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

**Section 217.451 Sunset Provisions**

Except for Sections 217.454(a) and (b) and 217.456(c), (e)(1)(B) through (D), and (e)(2), the provisions of this Subpart U shall not apply for any control period in 2009 or thereafter. Compliance for 2009 and after is required for these subsections. Noncompliance with the provisions of this Subpart that occurred prior to 2009 is subject to the applicable provisions of this Subpart.

(Source: Added at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 217.454 Applicability**

- a) This Subpart applies to any fossil fuel-fired stationary boiler, combustion turbine, or combined cycle system, with a maximum design heat input greater than 250 mmbtu/hr and that is:
  - 1) A unit listed in Appendix E of this 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 Subpart that:

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- 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<sub>x</sub> Trading Budget.
- b) ~~Those units that meet the above criteria and are subject to the NO<sub>x</sub> Trading Program emissions limitations contained in this Subpart~~ are budget units.
  - c) Low-emitter status: Notwithstanding subsection (a) of this Section, the owner or operator of a budget unit subject to the requirements of subsection (a) of this Section may elect low-emitter status by obtaining a permit with federally enforceable conditions that meet the requirements of 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.
  - 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<sub>x</sub> allowances from the Subpart U or Subpart W NO<sub>x</sub> Trading Budget, except for any allowance from the new source set-aside in accordance with Section 217.468 of this Subpart. Such

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unit must acquire NO<sub>x</sub> allowances in an amount not less than the NO<sub>x</sub> emissions from such budget unit during the control period (rounded to the nearest whole ton) in accordance with the federal NO<sub>x</sub> Trading Program, Subpart X of this Part or pursuant to a permanent transfer of NO<sub>x</sub> allocations pursuant to Section 217.462(b) of this Subpart.

- e) Notwithstanding any other provisions of this Subpart, a source and units at the source subject to the provisions of subsection (a) of this Section will become subject to this Subpart on *the first day of the control season subsequent to the calendar year in which all of the other states subject to the provisions of the NO<sub>x</sub> SIP Call (63 Fed. Reg. 57355 (October 27, 1998)) that are located in USEPA Region V or are that contiguous to Illinois have adopted regulations to implement NO<sub>x</sub> trading programs and other required reductions of NO<sub>x</sub> emissions pursuant to the NO<sub>x</sub> SIP Call, and such regulations have received final approval by USEPA as part of the respective states' SIPs for ozone, or a final FIP for ozone promulgated by USEPA is effective.* [415 ILCS 5/9.9(f)]

(Source: Amended at 35 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<sub>x</sub> Trading Program (budget permit), and that complies with the requirements of Section 217.458 of this Subpart.

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- 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 incorporating a source-wide overdraft account (as such term is defined in 40 CFR 96.2), or a permit incorporating unit specific compliance accounts for each budget unit at the source subject to this Subpart. Such election shall be at the sole discretion of the owner or operator of the source and the Agency shall incorporate such election into a permit issued to the source pursuant to this Subpart.
- c) Monitoring requirements:
- 1) For budget units subject to the requirements of this Subpart, and which commence operation on and after January 1, 2000, the owner or operator of each such budget unit at the source must comply with the monitoring requirements of 40 CFR 96, subpart H. The account representative of each such budget unit at the source shall comply with those sections of the monitoring requirements of 40 CFR 96, subpart H, applicable to an account representative.
  - 2) The compliance of each budget unit subject to the requirements of subsection (c)(1) or subsection (c)(3)(A) of this Section with the control period NO<sub>x</sub> emissions limitation under subsection (d) of this Section shall be determined by the emissions measurements recorded and reported in accordance with 40 CFR 96, subpart H.
  - 3) For budget units which commenced operation prior to January 1, 2000:
    - A) The owner or operator of each such budget unit at the source must comply with the requirements of 40 CFR 96, subpart H; or
    - B) If the monitoring requirements of 40 CFR 96, subpart H, are demonstrated by the source to be technically infeasible as applied to a budget unit subject to the requirements of this Subpart, the owner or operator of such budget unit may monitor by an alternative monitoring procedure for the budget unit approved by the Agency and the Administrator of USEPA pursuant to the

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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<sub>x</sub> 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<sub>x</sub> emissions (rounded to the nearest whole ton) from all budget units at the source subject to this Subpart.
  - 2) Allowances shall be held in, deducted from, or transferred among allowance accounts in accordance with this Subpart and 40 CFR 96, subparts F and G.
  - 3) Each ton of NO<sub>x</sub> emitted by a source with one or more budget units subject to this Subpart in any control period in excess of the NO<sub>x</sub> allowances held by the owner or operator for each budget unit at the source subject to this Subpart for each control period shall constitute a separate violation of this Subpart and the Act.

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- 4) In order to comply with the requirements of subsection (d)(1) of this Section, an allowance may not be utilized for a control period in a year prior to the year for which the allowance was allocated.
  - 5) An allowance allocated by the Agency or USEPA under the NO<sub>x</sub> Trading Program is a limited authorization to emit one ton of NO<sub>x</sub>. No provision of the NO<sub>x</sub> Trading Program, any permit issued or permit application submitted pursuant to this Subpart, or an exemption under 40 CFR 96.5 and no provision of law shall be construed to limit the authority of the United States or the State to terminate or limit this authorization.
  - 6) An allowance allocated by the Agency or USEPA under the NO<sub>x</sub> Trading Program or pursuant to this Subpart does not constitute a property right.
  - 7) Upon recordation by USEPA under 40 CFR 96, subpart F or G, every allocation, transfer, or deduction of an allowance to or from a budget unit's compliance account or to or from the source's general or overdraft account where the budget unit is located is deemed to amend automatically and become a part of any budget permit of the budget unit. This automatic amendment of the budget permit shall occur by operation of law and will not require any further review.
- e) Recordkeeping and reporting requirements:
- 1) Unless otherwise provided, the owner or operator of a source subject to the requirements of this Subpart must keep 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

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certificate of representation changing the account representative.

- B) All emissions monitoring information, 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<sub>x</sub> Trading Program~~ or documents necessary to demonstrate compliance with the requirements of this Subpart ~~or the NO<sub>x</sub> Trading Program~~.
  - D) Copies of all documents ~~used to complete a budget permit application and any other submission under this Subpart or under the NO<sub>x</sub> Trading Program~~.
- 2) The account representative of a source and each budget unit at the source subject to the requirements of this Subpart must submit to the Agency and USEPA the reports ~~and compliance certifications~~ required under this Subpart ~~and the NO<sub>x</sub> Trading Program~~, including those under 40 CFR 96, subparts ~~D and H~~.
- f) Liability:
- 1) No revision of a budget permit shall excuse any violation of the requirements of the NO<sub>x</sub> Trading Program or this Subpart that occurs prior to the date that the revision under such budget permit takes effect.
  - 2) Each budget source and each budget unit at the source shall meet the requirements of the NO<sub>x</sub> Trading Program.
  - 3) Any provision of this Subpart or the NO<sub>x</sub> Trading Program that applies to a source subject to the requirements of this Subpart (including a provision applicable to the account representative of the source) shall also apply to the owner and operator of such source and to the owner and operator of the budget units subject to the requirements of this Subpart at the source.
  - 4) Any provision of this Subpart or the NO<sub>x</sub> Trading Program that applies to

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a budget unit subject to the requirements of this Subpart (including a provision applicable to the account representative of such budget unit) shall also apply to the owner and operator of such budget unit. Except with regard to the requirements applicable to budget units with a common stack under 40 CFR 96, subpart H, the owner and operator and the account representative of one budget unit shall not be liable for any violation by any other budget unit of which they are not an owner or operator or the account representative and that is located at a source of which they are not an owner or operator or the account representative.

- 5) Excess emissions requirements: The account representative of a source that has excess emissions in any control period shall surrender the allowances as required for deduction under 40 CFR 96.54(d)(1).
- 6) The owner or operator of a budget EGU that has excess emissions in any control period shall pay any fine, penalty, or assessment or comply with any other remedy imposed under 40 CFR 96.54(d)(3) and the Act.
- g) Effect on other authorities: No provision of this Subpart, the NO<sub>x</sub> Trading Program, a budget permit application, a budget permit, or a retired budget unit exemption under 40 CFR 96.5 shall be construed as exempting or excluding the owner or operator and, to the extent applicable, the account representative of a source or budget unit from compliance with any other regulations promulgated under the CAA, the Act, an approved State implementation plan, or a federally enforceable permit.

(Source: Amended at 35 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)