

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE B: AIR POLLUTION
CHAPTER II: ENVIRONMENTAL PROTECTION AGENCY

PART 273
NO_x TRADING PROGRAM PROCEDURES

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AUTHORITY: Implementing and authorized by Section 9.9 of the Environmental Protection Act [415 ILCS 5/9.9].

SOURCE: Adopted at 29 Ill. Reg. 9467, effective June 14, 2005.

Section 273.100 Purpose

This Part provides procedures for the sale of NO_x allowances by the Agency and disbursement of certain proceeds from these sales pursuant to the requirements of Section 9.9 of the Act.

Section 273.105 Abbreviations and Acronyms

Unless otherwise specified in this Part, the abbreviations and acronyms used in this Part shall be the same as those found in 35 Ill. Adm. Code 211 and 217. The following abbreviations and acronyms are used in this Part.

ERC	Early Reduction Credit
NSSA	New Source Set-Aside
NO _x	Nitrogen oxides
ORIS	Office of Regulatory Information Systems

Section 273.110 Definitions

Except as otherwise defined in this Part, definitions of terms used in this Part shall be those used in 40 CFR 96.2 and 35 Ill. Adm. Code 211 and 217.

Section 273.120 NO_x Allowances for Sale by the Agency

The Agency may, but is not required to, sell allowances from the NSSA, Subpart W extra allowances as defined in subsections (a)(2) and (b)(2) of this Section, and ERC allowances, as follows, to:

- a) Non-EGUs subject to the requirements of 35 Ill. Adm. Code 217, Subpart U:
 - 1) Allowances from the NSSA as designated by 35 Ill. Adm. Code 217.468(c), if the unit commenced operation, as defined in 40 CFR 96.2, on or after January 1, 2004, and is eligible to receive allowances from the NSSA pursuant to 35 Ill. Adm. Code 217.468; and
 - 2) *Any allowances under 35 Ill. Adm. Code 217, Subpart W, that remain after each 3-year allocation period that could not be allocated on a pro-rata basis pursuant to the provisions of Subpart W (referred to in this Part as "Subpart W extras"). [415 ILCS 5/9.9(d-5)(3)]*
- b) EGUs subject to the requirements of 35 Ill. Adm. Code 217, Subpart W:
 - 1) *Any unearned early reduction credits set aside for Non-EGUs under 35 Ill. Adm. Code 217, Subpart U, but only to those sources that make qualifying early reductions of NO_x in 2003 pursuant to 35 Ill. Adm. Code 217 for which the source did not receive an allocation thereunder [415 ILCS 5/9.9(d-5)(1);*
 - 2) Subpart W extras; and
 - 3) Allowances from the NSSA, as determined by 35 Ill. Adm. Code 217.768(c), if the unit commenced operation, as defined in 40 CFR 96.2, on or after January 1, 2004, and is eligible to receive allowances from the NSSA pursuant to 35 Ill. Adm. Code 217.768.

Section 273.130 NO_x Allowance Database

- a) The Agency or its designee shall maintain a website that shall be available for public access on which a listing of the NO_x allowances the Agency has available for sale will be posted. The website shall include the following information on NO_x allowances:
 - 1) Type of allowance (e.g., ERC, NSSA);
 - 2) Vintage;
 - 3) Price;
 - 4) Application deadline;

- 5) Date posted;
 - 6) Payment due date; and
 - 7) Allocation date.
- b) Historical NO_x allowance sales. The Agency or its designee shall maintain a website that shall be available for public access on which a listing of the NO_x allowance sales the Agency has made for the prior two control periods shall be posted. The website shall include the following information on NO_x allowances:
- 1) Date of sale;
 - 2) Buyer;
 - 3) Type of source (Non-EGU or EGU);
 - 4) Volume;
 - 5) Vintage;
 - 6) Price; and
 - 7) Type of Allowance.
- c) The Agency or its designee shall maintain a NO_x allowance sales database. Notwithstanding the information on the Agency's website, the official record of all NO_x allowance transactions shall be the USEPA NO_x Allowance Tracking System.

Section 273.140 Transaction Procedures

The Agency may sell NO_x allowances, subject to the requirements of Section 9.9 of the Act, to sources subject to the requirements of 35 Ill. Adm. Code 217, Subparts U and W, pursuant to the following requirements:

- a) Upon notification or posting by the Agency that it has NO_x allowances for sale, a NO_x authorized account representative may submit an application to the Agency requesting to purchase NO_x allowances. Such application shall include the following:
 - 1) Bureau of Air facility identification number;
 - 2) ORIS ID number;
 - 3) Source name;

- 4) A statement setting forth the eligibility as set forth in Section 273.120 of this Part;
 - 5) Name and signature of the NO_x authorized account representative for the source;
 - 6) NO_x allowance tracking system account number; and
 - 7) Number, vintage and type of NO_x allowances being requested for purchase.
- b) Applications for the purchase of allowances from the NSSA must be submitted no later than February 15 prior to the control period for which the NSSA allowances are requested.
 - c) Applications for the purchase of Subpart W extras must be submitted no later than 30 days after the Agency posts on its website that such allowances are available for sale.
 - d) Applications for the purchase of ERCs must be submitted within the time period specified by the Agency on its website.
 - e) Once an application to purchase NO_x allowances is reviewed and deemed complete, the Agency shall notify the account representative of the number of allowances it may purchase by the dates specified on the Agency's website. The Agency may reject an incomplete application or an application received after the application deadline. For applications that include requests exceeding the maximum number of allowances for which the source is eligible to purchase, the Agency will limit the number of allowances that the account representative is eligible to purchase to a number less than or equal to the maximum number for which the source is eligible.
 - f) ERCs, Subpart W extras and allowances from the NSSA will be sold in a pro-rata basis to eligible sources. In the event that ERCs, Subpart W extras or allowances from the NSSA cannot be sold on a pro-rata basis to eligible sources, then the Agency will determine eligibility by randomly selecting one or more sources that did not receive the full number of allowances approved by the Agency.
 - g) Adjustments:
 - 1) If an account representative disagrees with the Agency's calculations of the number of allowances it is eligible to purchase, it may submit a written comment to the Agency explaining the reason for its disagreement and any necessary documentation no later than:

- A) By March 25 prior to the applicable control period for allowances from the NSSA.
 - B) Within 40 days after the application deadline for Subpart W extras.
 - C) By the date specified for ERCs by the Agency on its website.
- 2) The Agency will respond in writing to comments, make any necessary and appropriate adjustments to its proposed allotments and send a notification of final allotments no later than:
- A) April 7 prior to the applicable control period for allowances from NSSA.
 - B) Within 54 days after the application deadline for Subpart W extras.
 - C) By the date specified by the Agency on its website for ERCs.
- h) Payment: The Agency must receive a certified check for the NO_x allowances from the account representative by the deadline specified by the Agency in the notification of the final allotments pursuant to subsections (f) and (g)(2) of this Section. The check must be sent to the attention of the Compliance Unit, Bureau of Air, Illinois EPA, 1021 North Grand Avenue East, P.O. Box 19276, Springfield, Illinois 62794-9276. The date specified shall be at least eight business days after the date of the notification of the final allotment.
- i) If the opportunity to purchase allowances is forfeited due to nonpayment, the Agency will notify the account representative that the source's opportunity to purchase has been forfeited. The Agency will also notify the remaining eligible EGUs or Non-EGUs whose original request it was unable to meet that additional allowances are available for purchase. The Agency will offer forfeited Subpart W extras, ERCs, and allowances from the NSSA to eligible purchasers on a pro-rata basis. In the event that the forfeited allowances cannot be sold on a pro-rata basis to eligible purchasers, then the Agency will determine eligibility by randomly selecting one or more sources that did not receive the full number of allowances approved by the Agency until all such allowances are sold. All forfeited allowance purchase transactions must be completed by the dates specified by the Agency in the notification to eligible purchasers or on the Agency's website.
- j) The minimum sale allowed under the NO_x budget trading program shall be one NO_x allowance.
- k) Official Record of Transactions: The official record of all NO_x allowance transactions shall be USEPA's NO_x Allowance Tracking System. Any discrepancies found by the authorized account representative shall be reported pursuant to the applicable procedures in 40 CFR 96.

Section 273.150 Price of NSSA and Subpart W Extras

The selling price for allowances from the NSSA pursuant to 35 Ill. Adm. Code 217.768(k)(2) and Subpart W extras will be the average price at which NO_x allowances are traded in the NO_x Interstate Trading Program for the preceding control period as follows:

- a) The Agency will obtain the published market price indices by Cantor Environmental Brokerage and Evolution Markets LLC, or similarly recognized brokerage firms, for the particular allowance vintage as of 15½ months prior to the applicable control period (i.e., January 15 of the year previous to the current control period).
- b) The Agency will calculate the arithmetic mean of the two prices determined pursuant to subsection (a) of this Section, and the resulting number will be the purchase price. The purchase price shall be published on the Agency's website, along with the market indices used to calculate the purchase price.
- c) If one or both of these services or a similarly recognized brokerage service fails to publish a price for the applicable date, the Agency may use any reasonable indication of market price.

Section 273.160 Price of ERCs

The selling price for ERCs shall be \$2,000 per allowance.

Section 273.170 Disbursement of Proceeds of NSSA Sales

- a) After the Agency has recouped the reasonable costs incurred by the Agency in the administration of the NO_x Interstate Trading Program, it shall disburse the proceeds of the sale of the NO_x allowances from the NSSA, to the extent that proceeds remain, pro-rata to the owners or operators of the EGUs or Non-EGUs, as applicable, that received allowances from the Agency but not from the Agency's NSSA for EGUs or Non-EGUs.
- b) The Agency shall annually notify each eligible source of the Agency's calculation of the source's pro-rata share of the proceeds from the sale of allowances from the NSSA, if applicable, and shall post this information on the Agency's website. The Agency shall allow at least five business days for sources to provide written comments and shall provide a brief response to comments on the Agency's website. Once an allocation of proceeds has been made, it is final and there will be no adjustments.