**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 NOx 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) NOx 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 NOx 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 NOx emitted in excess of the number of NOx 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 NOx requirementsof subsections (c)(1) and (d)(1) of this Section starting on the later of May 31, 2004, the date on which the EGU commences *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 NOx 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 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)* [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 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 NOx Trading Program is a limited authorization to emit one ton of NOx in accordance with the NOx Trading Program. No provision of the NOx 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 NOx 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 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 NOx Trading Program or documents necessary to demonstrate compliance with the requirements of the NOx 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 NOx 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 NOx 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 NOx 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 NOx Trading Program.

3) Any provision of the NOx 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 NOx 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 NOx 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: Added at 25 Ill. Reg. 128, effective December 26, 2000)