**Section 217.764 NOx Allocations for Budget EGUs**

For each control period, the Agency will allocate the total number of NOx 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) 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 new source set-aside to budget EGUs in subsection (a)(2) of this Section. Any such allowances from the 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 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.

b) 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 before May 1, 2003, allowances as calculated in the following equation:

|  |  |  |
| --- | --- | --- |
| A | = | 0.80 x (HI x ER) |
| 2000 |

Where:

|  |  |  |
| --- | --- | --- |
| HI | = | heat input (in mmbtu/control period) as determined in Section 217.762(b) of this Part. |
| ER | = | the NOx emission rate in lbs/mmbtu as determined in Section 217.762(a) of this Part. |
| A | = | allowances of NOx/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 NOx 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 new source set-aside, pursuant to Section 217.768 of this Part, to budget EGUs that commenced commercial operation after May 1, 2003 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 new source set-aside, which the Agency will report by May 1, 2007.

c) 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 (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 before May 1, 2004, allowances as calculated in the following equation:

|  |  |  |
| --- | --- | --- |
| A | = | 0.80 x (HI x ER) |
| 2000 |

Where:

|  |  |  |
| --- | --- | --- |
| HI | = | heat input (in mmbtu/control period) as determined in Section 217.762(b) of this Part. |
| ER | = | the NOx emission rate in lbs/mmbtu as determined in Section 217.762(a) of this Part. |
| A | = | allowances of NOx/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 NOx 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 new source set-aside, pursuant to Section 217.768 of this Part, to budget EGUs that commenced commercial operation after May 1, 2004 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 new source set-aside, which the Agency will report by May 1, 2008.

d) 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 commenced commercial operation on or after January 1, 1995, and before May 1, 2005, allowances calculated in the following equation:

|  |  |  |
| --- | --- | --- |
| A | = | 0.50 x (HI x ER) |
| 2000 |

Where:

|  |  |  |
| --- | --- | --- |
| HI | = | heat input (in mmbtu/control period) as determined in Section 217.762(b) of this Part. |
| ER | = | the NOx emission rate in lbs/mmbtu as determined in Section 217.762(a) of this Part. |
| A | = | allowances of NOx/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 NOx 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 new source set-aside, pursuant to Section 217.768 of this Part, to budget EGUs that commenced commercial operation after May 1, 2005 and that have not operated for the full 2005 control period.

6) As of April 30, 2009, if the number of allowances in the new source set-aside exceeds 3% of the total number of tons of NOx 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 new source set-aside, which the Agency will report by May 1, 2009.

e) 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 commenced commercial operation on or after January 1, 1995, and before May 1, 2006, allowances as calculated in the following equation:

|  |  |  |
| --- | --- | --- |
| A | = | 0.50 x (HI x ER) |
| 2000 |

Where:

|  |  |  |
| --- | --- | --- |
| HI | = | heat input (in mmbtu/control period) as determined in Section 217.762(b) of this Part. |
| ER | = | the NOx emission rate in lbs/mmbtu as determined in Section 217.762(a) of this Part. |
| A | = | allowances of NOx/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 NOx 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 new source set-aside, pursuant to Section 217.768 of this Part, to budget EGUs that commenced commercial operation after May 1, 2006 and that have not operated for the full 2006 control period.

6) As of April 30, 2010, if the number of allowances in the new source set-aside exceeds 3% of the total number of tons of NOx 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 new source set-aside, which the Agency will report by May 1, 2010.

f) In 2011 (or the eighth year) of the program and annually thereafter:

1) The Agency will apportion the available NOx 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 NOx emission rate determined in Section 217.762(a)(1) of this Part.

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

2) The Agency will allocate allowances from the new source set-aside, pursuant to Section 217.768 of this Part, to budget EGUs that commenced commercial operation after the control period 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 new source set-aside exceeds 3% of the total number of tons of NOx 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 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 NOx 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: Added at 25 Ill. Reg. 128, effective December 26, 2000)