

ILLINOIS REGISTER

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED RULE

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

PART 274
CLEAN AIR SET-ASIDE

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SUBPART A: GENERAL PROVISIONS

Section 274.100 Purpose

This Part provides procedures for the determination and distribution of CASA Annual and Seasonal NO_x Allowances under 35 Ill. Adm. Code Part 225, Subparts D and E.

Section 274.102 Definitions

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Except as otherwise defined in this Part, definitions of terms used in this Part shall be those used in 35 Ill. Adm. Code 225.130 and Part 211 and 40 CFR 96.102 and 96.302, as incorporated by reference in 35 Ill. Adm. Code 274.106.

Section 274.104 Abbreviations and Acronyms

Agency	Illinois Environmental Protection Agency
CAIR	Clean Air Interstate Rule
CASA	Clean Air Set-Aside
NATS	NO _x Allowance Tracking System
NO _x	nitrogen oxides
NO _x allowances	CAIR NO _x allowances from the annual or seasonal CASA, as applicable
ORIS	Office Regulatory Information Systems
USEPA	United States Environmental Protection Agency

Section 274.106 Incorporations by Reference

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

- a) 40 CFR 96, CAIR NO_x Annual Trading Program, subparts AA (excluding 40 CFR 96.104, 96.105(b)(2), and 96.106), BB, FF, GG, And HH (2007); and
- b) 40 CFR 96, CAIR NO_x Seasonal Trading Program, subparts AAAA (excluding 40 CFR 96.304, 96.305(b)(2), and 96.306), BBBB, FFFF, GGGG, And HHHH (2007).

SUBPART B: CLEAN AIR SET-ASIDE PROCEDURES

Section 274.200 Eligible CAIR CASA Projects and NO_x Allowances Available for Distribution

- a) The types of projects eligible for NO_x allowances from the annual CASA are defined by 35 Ill. Adm. Code 225.460.
- b) The types of projects eligible for NO_x allowances from the seasonal CASA are defined by 35 Ill. Adm. Code 225.560.
- c) The number of NO_x allowances from the annual CASA available to the Agency

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for distribution will be determined pursuant to 35 Ill. Adm. Code 225.465 and 225.475.

- d) The number of NO_x allowances from the seasonal CASA available to the Agency for distribution will be determined pursuant to 35 Ill. Adm. Code 225.565 and 225.575.

Section 274.202 CAIR CASA NO_x Allowance Database

- a) The Agency will maintain a publicly-accessible website on which it will provide the following information about the NO_x allowances that are available for distribution in the applicable control periods:
 - 1) Number of NO_x allowances by CASA project category;
 - 2) Vintage;
 - 3) Application deadline; and
 - 4) Distribution date.
- b) Historical NO_x allowance distributions. The Agency will maintain a publicly-accessible website on which it will provide the following information about the NO_x allowance distributions that the Agency has made for at least the prior 15 control periods:
 - 1) Company or entity name;
 - 2) Project sponsor;
 - 3) ORIS code;
 - 4) CASA project category;
 - 5) NO_x allowances requested;
 - 6) NO_x allowances approved; and
 - 7) NO_x allowances distributed.

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- c) The Agency will update the website with both seasonal and annual draft NO_x allowances distributions by September 8 of each year. Project sponsors will be given until September 15 of each year to submit comments. The website will be updated with the final NO_x allowances distributions by October 8 of each year.
- d) Official Record of Transactions. The official record of all NO_x allowance transactions shall be the USEPA CAIR NO_x Allowance Tracking System (NATS). Any discrepancies found by the CAIR designated representative or authorized account representative shall be reported pursuant to the applicable procedures in 40 CFR 96, as incorporated by reference in Section 274.106.

Section 274.204 Applications for CAIR CASA NO_x Allowances

- a) A project sponsor requesting annual or seasonal NO_x allowances must submit applications that meet the requirements of 35 Ill. Adm. Code 225.470 or 225.570. A new application must be submitted for each control period for which allowances are requested.
- b) Beginning with the 2009 control period and each control period thereafter, a project sponsor may request NO_x allowances from the CASA. CASA applications for annual and seasonal CASA projects must have a send date, e.g, postmark or ship date, of no later than May 1 of the control period for which the allowances are being requested. Such applications must be sent by U.S. registered or certified mail, return receipt requested, other trackable mail, or delivered in person to the Illinois Environmental Protection Agency, Bureau of Air, Compliance Section, 1021 North Grand Avenue East, Springfield, Illinois 62794-9276. Applications which are hand-delivered shall be delivered to and received for by the Illinois EPA, Bureau of Air, Manager of the Division of Air of Pollution Control or his designee. Delivery by any other means or to another address will invalidate the application, unless resubmitted to the proper address by May 1 of the applicable control period.

Section 274.206 Review of CAIR CASA Applications

The Agency will determine based on its review of the project sponsor's CASA application(s) if:

- a) The project qualifies as a CASA project for the specified CASA project category and for the specific control period;
- b) The owner or operator of the CASA project:

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- 1) Commenced construction of the project on or after the dates listed in 35 Ill. Adm. Code 225.470(a) or 225.570(a), as applicable;
 - 2) Operated the project during an applicable seasonal or annual control period pursuant to 35 Ill. Adm. Code 225.470(b) or 225.570(b), as applicable; and
 - 3) Exceeded the maximum number of controls periods for the project to receive NO_x allowances pursuant to 35 Ill. Adm. Code 225.470(d) or 225.570(d), as applicable;
- c) The NO_x allowance calculations are correct; and
- d) All information has been submitted as follows:
- 1) For applications of projects that have not been previously approved, the documentation required by 35 Ill. Adm. Code 225.470(c) or 225.570(c), as applicable.
 - 2) For applications of projects previously approved, supporting information which includes:
 - A) A description of any changes or improvements;
 - B) The documentation required by subsections (c)(1), (c)(2), (c)(3), (c)(5), (c)(6), and (c)(7) of 35 Ill. Adm. Code 225.470 or 225.570, as applicable; and
 - C) A certification that all previously provided information that has not be amended remains complete and accurate.

Section 274.208 Agency Action on CASA Applications

- a) If the Agency finds that an application meets the applicable requirements, the Agency will notify the project sponsor in writing within 90 days of the Agency's receipt of the application that the application is deemed complete, and that the requested number of allowances is approvable pending other requests for allowances from the same project category.

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- b) If the Agency finds that an application does not contain all required information pursuant to 35 Ill. Adm. Code 225.470 or 225.570, as applicable, the Agency will, within 90 days of the Agency's receipt of the application, send a written request via certified mail to the project sponsor requesting the submittal of additional information. The project sponsor will have 14 days from date of receipt of notification to respond by U.S. registered or certified mail, return receipt requested, other trackable mail, or delivered in person to the Illinois Environmental Protection Agency, Bureau of Air, Compliance Section, 1021 North Grand Avenue East, Springfield, Illinois 62794-9276. Responses which are hand-delivered shall be delivered to and receipted for by the Illinois EPA, Bureau of Air, Manager of the Division of Air of Pollution Control or his designee. If the project sponsor does not respond in a timely manner or does not respond with all the required information, the application is deemed denied and no allowances will be distributed. The Agency will notify the project sponsor of the modified distribution or denial via certified mail.
- c) If the Agency finds that an application is complete but does not meet the applicable requirements, the Agency will send a written notification via certified mail of the application's deficiencies to the project sponsor within 90 days of the Agency's receipt of the application. The project sponsor will have 14 days from date of receipt of notification of deficiencies to respond via U.S. registered or certified mail, return receipt requested, other trackable mail, or delivered in person to the Illinois Environmental Protection Agency, Bureau of Air, Compliance Section, 1021 North Grand Avenue East, Springfield, Illinois 62794-9276. Responses which are hand-delivered shall be delivered to and receipted for by the Illinois EPA, Bureau of Air, Manager of the Division of Air of Pollution Control or his designee. If the project sponsor does not respond in a timely manner or does not adequately address the deficiencies, the application is deemed denied and no allowances will be distributed. The Agency shall notify the project sponsor of the modified distribution or denial via certified mail.
- d) If the Agency finds that the number of NO_x allowances requested in the application is not approvable, the Agency will send written notification via certified mail to the project sponsor within 90 days of the Agency's receipt of the application. This notification will include the modified number of NO_x allowances that may be approved but not guaranteed due to availability. The project sponsor will be given 14 days from date of receipt of notification to respond via U.S. registered or certified mail, return receipt requested, other trackable mail, or delivered in person to the Illinois Environmental Protection Agency, Bureau of Air, Compliance Section, 1021 North Grand Avenue East,

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Springfield, Illinois 62794-9276. Responses which are hand-delivered shall be delivered to and receipted for by the Illinois EPA, Bureau of Air, Manager of the Division of Air of Pollution Control or his designee. If the project sponsor does not respond within the above timeframe, the Agency's determination of the modified total number of NO_x allowances will be considered accepted. Even if the project sponsor does respond within the above timeframe, the Agency may still decide that the additional information fails to support modifying the number of approvable NO_x allowances and use its original determination of approvable NO_x allowances rather than the number requested by the project sponsor. The Agency shall notify the project sponsor of the distribution via certified mail.

- e) Prior to making final NO_x allowance distributions, the Agency will review any information submitted in a timely manner by a project sponsor in response to a written notification as described in subsections (b), (c), and (d) of this Section. The Agency may send multiple written requests for information or response if time allows.

Section 274.210 CAIR CASA NO_x Allowances Distribution

- a) By September 1, 2009, and each September 1 thereafter, the Agency will calculate the possible NO_x allowance distribution based on the information submitted and other pertinent information in relation to the project, and the equations given for each CASA category pursuant to 35 Ill. Adm. Code Part 225.
- b) If there are sufficient NO_x allowances available in the applicable CASA project category, the Agency will allocate the number of NO_x allowances determined pursuant to the procedures of this Subpart. If there are fewer NO_x allowances than the number the Agency determines approvable for the project, the Agency will allocate the NO_x allowances on a pro-rata basis, as specified in 35 Ill. Adm. Code 225.475(b) and 225.575(b).
- c) The Agency will allocate NO_x allowances, with the oldest vintage NO_x allowances within a CASA NO_x project category being allocated first.
- d) The Agency will keep track of any remaining NO_x allowances for the year and season by CASA NO_x project category.
- e) The Agency will notify USEPA of the annual and seasonal NO_x allowance distributions by October 1 of the year of the applicable control period.