**Section 273.120 NOx 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 NOx 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.