

Environmental Protection Agency

§ 57.201

NSO be modified such that the NSO will be adequately enforced.

§ 57.108 Comparable existing SIP provisions.

Notwithstanding any other provision of this part, an NSO may contain provisions to which the affected smelter is subject under the applicable EPA-approved State Implementation Plan (SIP) for sulfur dioxide in lieu of the corresponding provisions which would otherwise be required under this part if the Administrator determines that those SIP provisions are substantially equivalent to the corresponding NSO provisions which would otherwise be required, and if the Administrator determines that the smelter is in substantial compliance with those SIP provisions. For the purposes of this section, provisions to which the affected smelter is subject under the applicable EPA-approved State Implementation Plan are those which became effective before the smelter owner applied for the NSO.

§ 57.109 Maintenance of pay.

The Administrator will not approve or issue an NSO for any smelter unless he has approved or promulgated SIP provisions which are applicable to the smelter and which satisfy the requirements of section 110(a)(6) of the Clean Air Act.

§ 57.110 Reimbursement of State or local agency.

As a condition of issuing an NSO, any issuing agency may require the smelter operator to pay a fee to the State or local agency sufficient to defray the issuing agency's expenses in issuing and enforcing the NSO.

§ 57.111 Severability of provisions.

The provisions promulgated in this part and the various applications thereof are distinct and severable. If any provision of this part or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions, or the application of such provisions to other persons or circumstances, which can be given effect without the invalid provision of application.

Subpart B—The Application and the NSO Process

§ 57.201 Where to apply.

Any eligible smelter may apply for an NSO to the appropriate EPA Regional Office or to the appropriate State or local air pollution control agency.

(a) When application is made to EPA, all parts of the application required to be submitted under this subpart shall be sent directly to the Director, Stationary Source Compliance Division (EN-341), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460, Attention: Confidential Information Unit. In addition, the smelter owner shall send a copy of the application, except that part required to be submitted under § 57.203(b) (eligibility), directly to the appropriate EPA Regional Office.

(b) When application is made to the appropriate State or local agency, the smelter owner shall submit one complete copy of all parts of the application required to be submitted under this subpart to that agency, in addition to the application requirements contained in paragraph (a) of this section. If the smelter owner is requesting an advance eligibility determination pursuant to § 57.203(b), such request must be made in writing and shall accompany the copy of the application being sent to the Director of the Stationary Source Compliance Division of the Environmental Protection Agency.

(c) If the smelter owner is requesting a waiver of the interim constant control requirement of § 57.301, such request must be sent directly to the Director, Stationary Source Compliance Division, at the time of application, in accordance with § 57.802.

(d) *The NSO Process.* (1) A smelter desiring an NSO shall apply for an NSO by submitting an application under subpart B including the financial information required in appendix A and including the information necessary to make the determinations required by this subparagraph and § 57.201(d)(2). The issuing agency shall analyze the financial information according to the financial eligibility test prescribed by subpart A and described in appendix A.