

§ 57.102

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§ 57.102 Eligibility.

(a) A primary copper, lead, zinc, molybdenum, or other nonferrous smelter is eligible for an NSO if it meets the following conditions:

(1) The smelter was in existence and operating on August 7, 1977;

(2) The smelter is subject to an approved or promulgated sulfur dioxide (SO₂) State Implementation Plan (SIP) emission limitation which is adequate to ensure that National Ambient Air Quality Standards (NAAQS) for SO₂ are achieved without the use of any unauthorized dispersion techniques; and

(3) The Administrator determines, based on a showing by the smelter owner, that no means of emission limitation applicable to the smelter which would enable it to comply with its SIP stack emission limitation for SO₂ has been adequately demonstrated to be reasonably available (taking into account the cost of compliance, nonair quality health and environmental impact, and energy considerations) in accordance with § 57.201(d)(1).

(b) For the purposes of these regulations:

(1) The following means of emission limitation shall be considered adequately demonstrated for nonferrous smelters. (Taking into account nonair quality health and environmental impact and energy considerations, but not the cost of compliance).

(i) *Retrofit control technologies.*

(A) Sulfuric acid plant in conjunction with an adequately demonstrated replacement technology or process modification;

(B) Magnesium oxide (concentration) scrubbing;

(C) Lime/limestone scrubbing; and

(D) Ammonia scrubbing.

(ii) *Replacement or process modifications.*

(A) Flash smelting;

(B) Oxygen enrichment;

(C) Supplemental sulfur burning in conjunction with acid plant;

(D) Electric Furnace;

(E) Noranda process;

(F) Fluid bed roaster;

(G) Continuous smelting (Mitsubishi) process; and

(H) Strong stream/weak stream gas blending.

(2) Each adequately demonstrated means of emission limitation which would enable a smelter to comply with its SIP emission limitation for SO₂ shall be considered applicable to the smelter unless the smelter operator demonstrates that the use of a particular system at that smelter is technically unreasonable, for reasons specific to that site.

(3) An applicable means of emission limitation which would enable a smelter to comply with its SIP emission limitation for SO₂ shall be considered adequately demonstrated to be reasonably available to the smelter (taking into account the cost of compliance) if the information submitted under §§ 57.107(a) and 57.203(b) (plus any necessary supplemental information) shows, according to the criteria, procedures, and tests contained in appendix A to this part and in accordance with § 57.201(d)(1), that both of the following two tests are met.

(i) *The rate of return test.* The present value of the smelter's future net cash flow (during and after investment in constant control technology) is more than book value of the smelter's net investment in constant dollars.

(ii) *The profit protection test.* The constant control technology expenditure reduces the present value of the smelter's forecast pretax profits by less than 50%.

(c) When applying for an NSO, a smelter must establish, for purposes of applying the financial eligibility tests, which adequately demonstrated constant control technology applicable to that smelter is the most economically feasible for use at that smelter.

[50 FR 6448, Feb. 15, 1985, as amended at 51 FR 10211, Mar. 25, 1986]

§ 57.103 Definitions.

(a) *The Act* means the Clean Air Act, as amended.

(b) *Active use* refers to an SO₂ constant control system installed at a smelter before August 7, 1977 and not totally removed from regular service by that date.

(c) *Adequate SO₂ emission limitation* means a SIP emission limitation which was approved or promulgated by EPA as adequate to attain and maintain the NAAQS in the areas affected by the