

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 re-

quest 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. The issuing Agency shall then determine whether the smelter is able to comply with its SIP on or before the date required in the SIP by installing adequately demonstrated technology which is reasonably available. See also § 57.102(a)(3). If the test demonstrates that adequately demonstrated technology is not reasonably available to the smelter to allow it to comply with the SIP by the required compliance date, the smelter is eligible for an NSO.

(2)(i) If the smelter is determined to be eligible for an NSO under paragraph (d)(1) of this section, the issuing Agency shall apply the appendix A financial eligibility tests again before issuing an NSO in order to determine if the smelter can comply with its SIP requirements on or before January 1, 1988 by installing adequately demonstrated technology which is reasonably available.

(ii) If application of the tests shows that the smelter could comply by or before January 1, 1988, the issuing agency shall notify the smelter of this determination, and shall not issue an NSO to the smelter unless the NSO contains a SIP compliance schedule meeting the requirements of § 57.705. Such a compliance schedule must provide for compliance with the smelter's SO₂ SIP as expeditiously as practicable and in no case later than January 1, 1988. A smelter must submit to the issuing agency information necessary to determine a compliance schedule meeting the requirements of § 57.705. This information shall be submitted by a smelter within thirty days after the smelter is notified by the issuing agency that a SIP compliance schedule is