

§ 57.203 Contents of the application.

(a) *Claim of confidentiality.* The smelter owner may make a business confidentiality claim covering all or part of the information in the NSO application in accordance with 40 CFR part 2, subpart B (41 FR 36906 *et seq.*, Sept. 1, 1976 as amended by 43 FR 39997 *et seq.*, Sept. 8, 1978). A claim is effective only if it is made at the time the material is submitted to the issuing agency or EPA. A claim shall be made by attaching to the information a notice of confidentiality. Information claimed as confidential will be handled by EPA under the provisions of 40 CFR part 2, subpart B. If no claim accompanies the information, it may be made available to the public without further notice.

(b) Each smelter owner shall make the showing required by § 57.102(a)(3) by completing and submitting appendix A to this part and any necessary supplemental information to the issuing agency as a part of its application. Each smelter shall also submit as part of its application the information which, in conjunction with the information required by appendix A, is necessary for the issuing agency to make the determination required by § 57.201(d)(2). Any smelter owner or State may, at its option, simultaneously submit this material to EPA for an advance eligibility determination.

(c) *Current operating information.* A complete NSO application shall also contain the following information:

(1) A process flow diagram of the smelter, including current process and instrumentation diagrams for all processes or equipment which may emit or affect the emission of sulfur dioxide; the characteristics of all gas streams emitted from the smelter's process equipment (flow rates, temperature, volumes, compositions, and variations over time); and a list of all monitoring data and strip charts, including all data, charts, logs or sheets kept with respect to the operation of any process equipment which may emit or affect the emission of sulfur dioxide;

(2) The smelter's maximum daily production capacity (as defined in § 57.103(r)), the operational rate (in pounds of concentrate charged to the smelting furnace per hour) of each

major piece of process equipment when the smelter is operating at that capacity; and the smelter's average and maximum daily production rate for each product, co-product, or by-product, by year, for the past four years;

(3) The optimal conversion efficiency (defined in terms of percent of total SO₂ removed from the input flow stream) of any acid plant or other sulfur dioxide control system under the normal process operating conditions (excluding malfunctions) most conducive to optimal conversion efficiency;

(4) The average conversion efficiency of any acid plant or other sulfur dioxide control system during normal process operations (excluding malfunctions), by month, during the past four years.

(5) The percent of the time the acid plant or other control system was available for service during each month for the past four years, excluding downtime for scheduled maintenance, and a full explanation of any major or recurring problems with the system during that time;

(6) The frequency and duration of times during the past four years when the SO₂ system was unavailable because of scheduled maintenance of the system;

(7) A description of all scheduled, periodic, shutdowns of the smelter during the past four years, including their purpose, frequency and duration; and the same information with respect to unscheduled shutdowns;

(8) The gas volume, rates, and SO₂ concentration which the control system was actually designed to accommodate, taking into account any modifications made after its installation;

(9) The average monthly sulfur balance across the process and control equipment, including fugitive emissions, for the past 4 years; and

(10) A description of engineering techniques now in use at the smelter to prevent the release of fugitive emissions into the atmosphere at low elevations.

(d) *The smelter owner's proposals.* The smelter owner shall submit as part of its application, draft NSO provisions which would implement the requirements of subparts C through G of this part. The issuing agency may use these

Environmental Protection Agency

§ 57.205

proposals as the basis for any NSO that may be granted, or may modify these proposals in any way it deems necessary in order to comply with the requirements of this part.

(e) A smelter may submit as part of its application, information necessary to determine any SIP compliance schedule which might be required under § 57.201(d)(2).

(f) *Additional information.* The smelter owner shall designate in its application a corporate officer responsible and authorized to supply supplemental technical and economic information and explanations as required by the issuing agency during the formulation of the NSO. Failure to supply such information and explanations shall constitute a failure to submit a complete application.

(g) *Request for a waiver of constant controls.* Any request for a waiver of the requirement interim constant control of all strpmg streams of § 57.301 shall be made in accordance with § 57.802. The criteria and procedures for granting the waiver are governed by subpart H of this part.

(h) Unless a smelter applies for a waiver in accordance with subpart H, a smelter shall submit as part of its application a proposed schedule for compliance with the interim constant control requirements of subpart C which satisfies the requirements of § 57.702.

§ 57.204 EPA action on second period NSOs which have already been issued.

(a) EPA may approve a second period NSO issued by a State before the date of publication of these regulations in the FEDERAL REGISTER, without requiring a complete reapplication under this subpart and new State proceedings, provided:

(1) The second period NSO was issued by the State consistent with the procedural requirements of section 119 of the Clean Air Act;

(2) EPA can make a determination that the smelter is eligible for a second period NSO and whether the smelter can comply with its SO₂ SIP limits on or before January 1, 1988 under the financial eligibility tests in these regulations on the basis of available information and such supplementary infor-

mation as the Agency may request the smelter to submit; and

(3) The provisions of the NSO are consistent with the requirements of these regulations.

(b) Should EPA require a smelter to submit information before taking final action on an NSO referred to in paragraph (a), of this section, it shall specify a reasonable period for submission of such information in light of the nature of the information being required. The duration of such period shall not exceed the period allowed for submission of a complete application under § 57.202 (a) and (b).

(c) The Agency shall consider the SIP emission limitation for SO₂ to be suspended with respect to a smelter which received an NSO described in subpart A until EPA takes final action on such NSO. Such suspension shall terminate if the smelter does not submit supplementary information within the time specified under paragraph (b).

§ 57.205 Submission of supplementary information upon relaxation of an SO₂ SIP emission limitation.

(a) In the event an SO₂ SIP limit is relaxed subsequent to EPA approval or issuance of a second period NSO, the smelter issued the NSO shall submit to the issuing agency and EPA such supplementary information that EPA considers appropriate for purposes of determining whether the means of compliance with the new SIP limit are adequately demonstrated to be reasonably available under the financial eligibility tests specified in § 57.102(b)(3). The smelter shall submit such information within sixty days of notification by EPA. This time limit may be extended by EPA for good cause.

(b) Upon receipt of any supplementary information required under paragraph (a), the issuing agency shall promptly reevaluate the availability of the means of compliance with the new SIP limit under the NSO eligibility tests specified in § 57.102(b)(3). If the issuing agency determines that the demonstrated control technology necessary to attain the new SO₂ SIP limit is adequately demonstrated to be reasonably available under the eligibility tests, so as to permit the smelter to comply with the new SIP limit on or