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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 SO_2 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 information 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 SO_2 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 SO_2 SIP emission limitation.

(a) In the event an SO_2 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 SO_2 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 before January 1, 1988, the NSO shall be amended within the time contemplated

by § 57.202(a) after receipt of the supplementary information. Such amendment shall require compliance with the new SO_2 SIP limit as expeditiously as practicable in accordance with § 57.201(d)(3). The issuing agency, if not EPA, shall promptly submit its determination and any necessary NSO amendments to EPA.

(c) EPA shall take action to approve or disapprove the issuing agency's determination and NSO amendment, if any, within a reasonable time after receipt of such determination and amendment.

(d) If EPA disapproves the issuing agency's determination or NSO amendment, or if a smelter fails to submit any supplementary information as required under paragraph (a), EPA and/or the issuing agency shall take appropriate remedial action. EPA shall take appropriate remedial action if the issuing agency does not make any determination and amendment required by this section within the time contemplated by § 57.202(a).

Subpart C—Constant Controls and Related Requirements

§ 57.301 General requirements.

Each NSO shall require an interim level of sulfur dioxide constant controls to be operated at the smelter, unless a waiver of this requirement has been granted to the owner under subpart H of this part. Except as otherwise provided in § 57.304, the interim constant controls shall be properly operated and maintained at all times. The NSO shall require the following gas streams to be treated by interim constant controls:

(a) In copper smelters, off-gases from fluidized bed roasters, flash furnaces, NORANDA reactors, electric furnaces and copper converters;

(b) In lead smelters, off-gases from the front end of the sintering machine and any other sinter gases which are recirculated;

(c) In zinc smelters, off-gases from mult-hearth roasters, flash roasters and fluidized bed roasters; and

(d) In all primary nonferrous smelters, all other strong SO_2 streams.

(e) In all primary nonferrous smelters, any other process streams which were regularly or intermittently treated by constant controls at the smelter as of August 7, 1977.

§ 57.302 Performance level of interim constant controls.

(a) *Maximum feasible efficiency.* Each NSO shall require: that the smelter operate its interim constant control systems at their maximum feasible efficiency, including the making of any improvements necessary to correct the effects of any serious deficiencies; that the process and control equipment be maintained in the way best designed to ensure such operation; and that process operations be scheduled and coordinated to facilitate treatment of process gas streams to the maximum possible extent. Maximum feasible efficiency shall be expressed in the NSO in the form of a limitation on the concentration of SO_2 in the tail gas of each individual control system in combination with an appropriate averaging period, as provided below in paragraphs (b) and (c) of this section.

(b) *The limitation level for SO_2 concentration in the control system tail gas.* The level at which the concentration limitation is set shall take into account fluctuations in the strength and volume of process off-gases to the extent that those fluctuations affect the SO_2 content of the tail gas and cannot be avoided by improved scheduling and coordination of process operations. The limitation shall exclude the effect of any increase in emissions caused by process or control equipment malfunction. The limitation shall take into account unavoidable catalyst deterioration in sulfuric acid plants, but may prescribe the frequency of catalyst screening or replacement. The NSO shall also prohibit the smelter owner from using dilution air to meet the limitation.

(c) *Averaging period.* (1) The averaging period shall be derived in combination with the concentration limitation and shall take into account the same factors described in paragraph (b). The averaging period established under this paragraph should generally not exceed the following:

(i) For sulfuric acid plants on copper smelters, 12-hour running average;