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the undersigned official, being empowered to do so, consents for the company as follows:

(1) In any civil proceeding (judicial or administrative) to enforce the NSO, the company will not contest:

(a) Liability for any violation of the National Ambient Air Quality Standards for sulfur dioxide in the smelter's designated liability area (DLA), except on the ground that a determination under 40 CFR 57.402(c)(3) was clearly wrong; or

(b) The conclusive allocation of liability under NSO provisions satisfying 40 CFR 57.402(d)(1) between the company's smelter and any other smelter(s) for any violation of the National Ambient Air Quality Standards for sulfur dioxide in an area of overlapping DLAs.

(2) The issuing agency (as defined in 40 CFR 57.103) will be allowed unrestricted access at reasonable times to inspect, verify calibration of, and obtain data from ambient air quality monitors operated by the company under the requirements of the NSO.

(b) *Rights not waived by the consent.* This consent shall not be deemed to waive any right(s) to judicial review of any provisions of an NSO that are otherwise available to the smelter owner or operator under section 307(b) of the Clean Air Act.

§ 57.404 Measurements, records, and reports.

(a) *Measurements.* Each NSO shall require the smelter owner to install, operate, and maintain a measurement system(s) for continuously monitoring sulfur dioxide emissions and stack gas volumetric flow rates in each stack (except a stack used exclusively for bypassing control equipment) which could emit 5 percent or more of the smelter's total potential (uncontrolled) hourly sulfur dioxide emissions.

(1) Such monitors shall be installed, operated, and maintained in accordance with the performance specifications and other requirements contained in appendices D and E to 40 CFR part 52. The monitors must take and record at least one measurement of sulfur dioxide concentration and stack gas flow rate from the effluent of each affected stack in each fifteen-minute period. (The NSO shall require the smelter operator to devise and implement any procedures necessary for compliance with these performance specifications.)

(2) The sampling point shall be located at least eight stack diameters (diameter measured at sampling point) downstream and two diameters upstream from any flow disturbance such as a bend, expansion, constriction, or flame, unless another location is approved by the Administrator.

(3) The sampling point for monitoring emissions shall be in the duct at the centroid of the cross section if the cross sectional area is less than 4.645 m^2 (50 ft^2) or at a point no closer to the wall than 0.914m (3 ft) if the cross sectional area is 4.645 m^2 (50 ft^2) or more. The monitor sample point shall be in an area of small spatial concentration gradient and shall provide a sample which is representative of the concentration in the duct.

(4) The measurement system(s) installed and used pursuant to this paragraph shall be subject to the manufacturer's recommended zero adjustment and calibration procedures at least once per 24-hour operating period unless the manufacturer specifies or recommends calibration at shorter intervals, in which case such specifications or recommendations shall be followed. Records of these procedures shall be made which clearly show instrument readings before and after zero adjustment and calibration.

(5) The results of such monitoring, calibration, and maintenance shall be submitted in the form and with the frequency specified in the NSO.

(b) *Records.* Each NSO shall require the smelter owner to maintain records of the air quality measurements made, meteorological information acquired, emission curtailment ordered (including the identity of the persons making such decisions), and calibration and maintenance performed on SCS monitors during the operation of the SCS. These records shall be maintained for the duration of the NSO.

(c) *Reports.* Each NSO shall require the smelter owner to:

(1) Submit a monthly summary indicating all places and times at which the NAAQS for SO_2 were violated in the smelter's DLA, and stating the SO_2 concentrations at such times;

(2) Immediately notify EPA and the State agency any time concentrations of SO_2 in the ambient air in the smelter's DLA reaches 0.3 part per million (800 micrograms/cubic meter), 24-hour

average, or exceed the warning stage in any more stringent emergency plan in the applicable State Implementation Plan; and

(3) Make such other reports as may be specified in the NSO.

§ 57.405 Formulation, approval, and implementation of requirements.

(a) *SCS content of the application*. The requirements of § 57.203(d) shall be satisfied with respect to this subpart as follows:

(1) Each NSO application shall include a complete description of any supplementary control system in operation at the smelter at the time of application and a copy of any SCS operational manual in use with that system.

(2) Each NSO application shall contain proposed NSO provisions for compliance with the requirements of §§ 57.401, 57.402 (c), (d), and (f), 57.403, 57.404, and 57.405 (b)(2).

(3) Each NSO application shall include a specific plan for the development of a system fulfilling the requirements of § 57.402(a), (b), and (e) (covering air quality monitoring network, meteorological network, and the SCS operational manual).

(b) *SCS content of the order*. (1) Each NSO shall include an approved version of the plan described in paragraph (a)(3) of this section and shall provide increments of progress towards its completion. Each NSO shall require, upon completion of the measures specified in the approved plan, submission of a report which describes each element of the SCS and explains why the elements satisfy the requirements of the plan and submission of a copy of the SCS operational manual developed under the plan.

(2) Each NSO shall require the submission of a final report, within 6 months of the required date for completion of the measures specified in the approved plan evaluating the performance and adequacy of the SCS developed pursuant to the approved plan. The report shall include:

(i) A detailed description of how the criteria that form the basis for particular curtailment decisions were derived;

(ii) A complete description of each SCS element listed in § 57.402 (a) through (d) (covering monitoring, meteorology, and the DLA), and an explanation of why the elements fulfill the requirements of those sections;

(iii) A reliability study demonstrating that the SCS will prevent violations of the NAAQS in the smelter's DLA at all times. The reliability study shall include a comprehensive analysis of the system's operation during one or more three-month seasonal periods when meteorological conditions creating the most serious risk of NAAQS violations are likely to occur. Where it is impossible, because of time restraints, to include in such a study and analysis of the three month seasonal period with meteorological conditions creating the most serious risk of NAAQS violations, the study shall analyze the system's operation on the basis of all available information. The NSO shall provide that in such case, a supplemental reliability study shall be submitted after the end of the worst case three-month period as a part of the next semi-annual report required under § 57.402(f).

(iv) A copy of the current SCS operational manual.

(c) *Amendment of the NSO*. Each NSO shall be amended, if necessary, within 3 months of completion of the measures required under the SCS development plan and also, if necessary, within three months of submission of the final report or any supplement to the final report required under paragraph (b)(2) of this section, to reflect the most current approved elements of the SCS and, as appropriate, to fulfill all other requirements of this subpart. Each NSO shall also be subsequently amended (as provided in § 57.104) whenever necessary as a result of the program required by § 57.402(f) or to reflect improved SCS operating procedures or other system requirements.

Subpart E—Fugitive Emission Evaluation and Control

§ 57.501 General requirements.

(a) Each NSO shall require the smelter owner to use such control measures as may be necessary to ensure that the