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directive when such interpretation may result in application of the act or rule, regulation, or program directive that is inconsistent with Agency policy. However, the responsible official in a Regional office will not be required to seek such concurrence from the appropriate EPA Headquarters office for actions that may result in inconsistent application if such inconsistent application is required in order to act in accordance with a federal court decision:

(1) Issued by a Circuit Court in challenges to ''locally or regionally applicable'' actions, as provided in Clean Air Act section 307(b) (42 U.S.C. 7607(b)), if that circuit court has direct jurisdiction over the geographic areas that the Regional office official is addressing, or (2) Issued by a district court in a specific case if the party the Regional office official is addressing was also a party in the case that resulted in the decision.

(c) In reviewing State Implementation Plans, the Regional Office shall follow the provisions of the guideline, revisions to State Implementation Plans—Procedures for Approval/Disapproval Actions, OAQPS No. 1.2–005A, or revision thereof. Where regulatory actions may involve inconsistent application of the requirements of the act, the Regional Offices shall classify such actions as special actions.

[45 FR 85405, Dec. 24, 1980, as amended at 81 FR 51114, Aug. 3, 2016]

§ 56.6 Dissemination of policy and guidance.

The Assistant Administrators of the Offices of Air, Noise and Radiation, and of Enforcement, and the General Counsel shall establish as expeditiously as practicable, but no later than one year after promulgation of this part, systems to disseminate policy and guidance. They shall distribute material under foregoing systems to the Regional Offices and State and local agencies, and shall make the material available to the public. Air programs policy and guideline systems shall contain the following:

(a) Compilations of relevant EPA program directives and guidance, except for rules and regulations, concerning the requirements under the Act.

(b) Procedures whereby each Headquarters program office and staff office will enter new and revised guidance into the compilations and cause superseded guidance to be removed.

(c) Additional guidance aids such as videotape presentations, workshops, manuals, or combinations of these where the responsible Headquarters official determines they are necessary to inform Regional Offices, State and local agencies, or the public about EPA actions.

§ 56.7 State agency performance audits.

(a) EPA will utilize the provisions of subpart B, Program Grants, of part 35 of this chapter, which require yearly evaluations of the manner in which grantees use Federal monies, to assure that an adequate evaluation of each State's performance in implementing and enforcing the act is performed.

(b) Within 60 days after comment is due from each State grantee on the evaluation report required by § 35.538 of this chapter, the Regional Administrator shall incorporate or include any comments, as appropriate, and publish notice of availability of the evaluation report in the FEDERAL REGISTER.

PART 57—PRIMARY NONFERROUS SMELTER ORDERS

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APPENDIX A TO PART 57—PRIMARY NONFERROUS SMELTER ORDER (NSO) APPLICATION

AUTHORITY: Secs. 110, 114, 119, 301, Clean Air Act, as amended (42 U.S.C. 7410, 7414, 7419, and 7601); sec. 406 of Pub. L. 95–95.

SOURCE: 50 FR 6448, Feb. 15, 1985, unless otherwise noted.

Subpart A—General

§ 57.101 Purpose and scope.

(a) *Applicability of the regulations.* The regulations in subparts A through H govern:

(1) The eligibility of smelters for a Primary Nonferrous Smelter Order (NSO) under section 119 of the Clean Air Act;

(2) The procedures through which an NSO can be approved or issued by EPA; and

(3) The minimum contents of each NSO required for EPA issuance or approval under section 119. Subpart I *et seq.*, will contain NSOs in effect for individual smelters.

(b) *State authority to adopt more stringent requirements.* Nothing in this part shall preclude a State from imposing more stringent requirements, as provided by section 116 of the Clean Air Act.

§ 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 (SO_2) State Implementation Plan (SIP)