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based on the use of real time information from the air quality monitoring network dispersion model estimates of the effect of emissions on air quality, and meteorological observations and predictions.

(2) The operational manual shall also provide for emission curtailment to prevent violation of the NAAQS within the smelter's DLA which may be caused in part by stack emissions, and to the extent practicable fugitive emissions, from any other source (unless that other source is a smelter subject to an NSO).

(3) The SCS operational manual shall include (but not be limited to):

(i) A clear delineation of the authority of the SCS operator to require all other smelter personnel to implement the operator's curtailment decisions;

(ii) The maintenance and calibration procedures and schedules for all SCS equipment;

(iii) A description of the procedures to be followed for the regular acquisition of all meteorological information necessary to operate the system;

(iv) The ambient concentrations and meteorological conditions that will be used as criteria for determining the need for various degrees of emission curtailment;

(v) The meteorological variables as to which judgments may be made in applying the criteria stated pursuant to paragraph (e)(3)(iv) of this section;

(vi) The procedures through which and the maximum time period within which a curtailment decision will be made and implemented by the SCS operator;

(vii) The method for immediately evaluating the adequacy of a particular curtailment decision, including the factors to be considered in that evaluation;

(viii) The procedures through which and the time within which additional necessary curtailment will immediately be effected; and

(ix) The procedures to be followed to protect the NAAQS in the event of a mechanical failure in any element of the SCS.

(f) *Continuing review and improvement of the SCS.* Each NSO shall require the smelter owner to conduct an active program to continuously review the design and operation of the SCS to determine what measures may be available for improving the performance of the system. Among the elements of this program shall be measures to locate and examine possible places both inside and outside the DLA where unmonitored NAAQS violations may be occurring. Such measures shall include the use of modeling as appropriate and mobile ambient air quality monitors, following up on information and complaints from members of the public, and other appropriate activities. The NSO shall also require the submission of a semi-annual report to the issuing agency detailing the results of this review and specifying measures implemented to prevent the recurrence of any violations of NAAQS.

§ 57.403 Written consent.

(a) *The consent.* The NSO shall include a written consent, signed by a corporate official empowered to do so, in the following form:

> As a condition of receiving a Primary Nonferrous Smelter Order (NSO) under Section 119 of the Clean Air Act, for the smelter operated by (name of company) at (location), 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.