§ 57.401 General requirements.

Except as provided in subpart E, each NSO shall require the smelter owner to prevent all violations of the NAAQS in the smelter’s designated liability area (DLA) through the operation of an approved supplementary control system (SCS).

§ 57.402 Elements of the supplemental control system.

Each supplementary control system shall contain the following elements:

(a) Air quality monitoring network. An approvable SCS shall include the use of appropriate ambient air quality monitors to continuously measure the concentration of sulfur dioxide in the air in the smelter’s DLA.

(1) The monitors shall be located at all points of expected SO\textsubscript{2} concentrations necessary to anticipate and prevent possible violations of NAAQS anywhere in the smelter’s DLA. The determination of the locations where such concentrations may occur shall take into account all recorded or probable meteorological and operating conditions (including bypassing of control equipment), as well as the presence of other sources of SO\textsubscript{2} significantly affecting SO\textsubscript{2} concentrations in the DLA.

(2) The number and location of sites shall be based on dispersion modeling, measured ambient air quality data, meteorological information, and the results of the continuing review required by paragraph (f) of this section. The system shall include the use of at least 7 fixed monitors unless the issuing agency determines, on the basis of a demonstration by the smelter owner, that the use of fewer monitors would not limit coverage of points of high SO\textsubscript{2} concentration or otherwise reduce the capability of the smelter owner to prevent any violations of the NAAQS in the smelter’s DLA.

(3) All monitors shall be continuously operated and maintained and shall meet the performance specifications contained in 40 CFR part 53. The monitors shall be capable of routine real time measurement of maximum expected SO\textsubscript{2} concentrations for the averaging times of SO\textsubscript{2} NAAQS.

(b) Meteorological network. The SCS must have a meteorological assessment capability adequate to predict and identify local conditions requiring emission curtailment to prevent possible violations of the NAAQS. The meteorological assessment capability shall provide all forecast and current information necessary for successful use of the SCS operational manual required by paragraph (e) of this section.

(c) Designated liability area. The system shall be required to prevent all violations of the NAAQS within the smelter’s DLA. The DLA of any smelter is the area within which the smelter’s emissions may cause or significantly contribute to violations of the NAAQS for SO\textsubscript{2} when the smelter is operating at its maximum production capacity under any recorded or probable meteorological conditions. The boundaries of that area shall be specified in the NSO.

(1) Unless an acceptable demonstration is made under paragraph (c)(2) of this section, the DLA shall be a circle with a center point at the smelter’s tallest stack and a minimum radius as given in the following table:

<table>
<thead>
<tr>
<th>Emissions rate in tons per hour</th>
<th>Emission rate in grains per sec.</th>
<th>Radius in kilometers</th>
</tr>
</thead>
<tbody>
<tr>
<td>16 or less</td>
<td>4,000 or less</td>
<td>11</td>
</tr>
<tr>
<td>24</td>
<td>6,000</td>
<td>16</td>
</tr>
</tbody>
</table>


Environmental Protection Agency

§ 57.402

RADIUS FOR SO₂ EMISSIONS AT MAXIMUM PRODUCTION CAPACITY 1—Continued

<table>
<thead>
<tr>
<th>Emissions rate in tons per hour</th>
<th>Emission rate in grains per sec.</th>
<th>Radius in kilometers</th>
</tr>
</thead>
<tbody>
<tr>
<td>32</td>
<td>8,000</td>
<td>24</td>
</tr>
<tr>
<td>40</td>
<td>10,000</td>
<td>32</td>
</tr>
<tr>
<td>48 or more</td>
<td>12,000 or more</td>
<td>40</td>
</tr>
</tbody>
</table>

*1 Maximum emission rates for periods not to exceed 24 hours. Minimum radii may be determined from the table by linear interpolation.

(2) The NSO may provide for a DLA with different boundaries if the smelter owner can demonstrate through the use of appropriate dispersion modeling and ambient air quality monitoring data that the smelter's controlled emissions could not cause or significantly contribute to a violation of the NAAQS beyond the boundaries of such a different area under any recorded or probable meteorological conditions.

(3) A violation of the NAAQS in the DLA of any smelter shall constitute a violation of that smelter's NSO, unless the issuing agency determines on the basis of a showing by the smelter owner that the smelter owner had taken all emission curtailment action indicated by the SCS operational manual and that the violation was caused in significant part by:
   (i) Emissions of another source(s) which were in excess of the maximum permissible emissions applicable to such source(s),
   (ii) Fugitive emissions of another source(s), or
   (iii) The smelter's own fugitive emissions: Provided, that the smelter is in compliance with all requirements of or under subpart E of this part.

(4) For the purposes of this section, maximum permissible emissions for other sources are the highest of:
   (i) SIP emission limitation;
   (ii) Orders in effect under section 113(d) of the Clean Air Act; or
   (d) Overlapping designated liability areas. Notwithstanding any other provisions of this subpart, the following requirements shall apply whenever the designated liability areas of 2 or more smelters do, or may, overlap:

(1) In the case of any NSO applicant that would have a DLA which would overlap with the DLA of any other smelter that has applied for an NSO or has an NSO in effect, the NSO applicant shall include in its application an enforceable joint plan, agreed to by such other smelter(s). In determining whether a joint plan is required, the NSO applicant shall calculate its DLA according to the table in paragraph (c)(1) of this section. The DLA of the other smelter shall be calculated according to the table in paragraph (c)(1) unless the other smelter has an NSO in effect, in which case the boundaries in that NSO shall be used. The enforceable joint plan shall provide for:
   (i) Emission curtailment adequate to ensure that the NAAQS will not be violated in any areas of overlapping DLAs; and
   (ii) Conclusive prospective allocation of legal liability in the event that the NAAQS are violated in the area of overlapping DLAs.

Such plans may, but need not, include the operation of a joint SCS system. Each NSO shall require adherence by the NSO applicant owner to the joint plan for emission curtailment and allocation of liability, unless the issuing agency determines, pursuant to the provisions of paragraph (c)(2) of this section, that the NSO applicant's DLA does not overlap with that of any other smelter.

(2) In the case of any NSO applicant that would have a DLA which would overlap with the DLA of any other smelter whose owner has not applied for an NSO (and does not have an NSO in effect), the NSO applicant's submittal shall contain a written consent, signed by a corporate official empowered to do so. The consent shall state that if, at any time thereafter, the owner of the other smelter applies for an NSO, the NSO applicant will negotiate and submit an enforceable joint plan for emission curtailment and allocation of liability (as described in paragraph (d)(1) of this section). In determining whether it is necessary to submit such a consent, each smelter's DLA shall be calculated according to the table set forth in paragraph (c)(1) of this section. The consent shall state that a joint plan shall be submitted within 90 days of the issuing agency's
§ 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),