| **Section 110(a) Element** | **Summary of Element** | **Guidance Narrative** |  |
| --- | --- | --- | --- |
| **§110(a)(2)(D)** | **Interstate Transport** | To address prongs 1 and 2 of section 110(a)(2)(D), the state’s submission should includean assessment whether or not emissions from SO2 sources located close to state borders (*e.g.*,within the 50-km modeling domain used to assess source-specific SO2 impacts35) have associatedinterstate transport impacts and if so, address the impacts. The assessment might include, but isnot limited to, information concerning emissions in the state, meteorological conditions in thestate and the potentially impacted states, monitored ambient concentrations in the state and thepotentially impacted states, the distance to the nearest area that is not attaining the NAAQS inanother state, and air quality modeling. For areas designated as unclassifiable, this assessmentcould also be informed by the analysis conducted to satisfy 110(a)(1) maintenance SIPrequirements.[[1]](#footnote-1) |  |
| **§110(a)(2)(D)(i)(I)****Interstate transport as it relates to significant contribution to nonattainment and interference with maintenance** | *contain adequate provisions* *(i) prohibiting, consistent with the provisions of this subchapter, any source or other type of emissions activity within the state from emitting any air pollutant in amounts which will* *(I) contribute significantly to nonattainment in, or interfere with maintenance by, any other state with respect to any such national primary or secondary ambient air quality standard, or* | EPA has proposed several rules that will or may reduce emissions of SO2, such as theCSAPR, the Industrial Boilers MACT, and the MATS. The emissions reductions achieved underthese rules should result in reduced impacts from transported SO2 emissions and states shouldconsider these measures, among others measures, in fulfilling the section 110(a)(2)(D)(i)(I)requirements. |  |
| **§110(a)(2)(D)(i)(II)****Interstate transport as it relates to PSD and visibility** | *(II) interfere with measures required to be included in the applicable implementation plan for any other State under part C of this subchapter to prevent significant deterioration of air quality or to protect visibility,*  | Under section 110(a)(2)(D)(i)(II), the PSD sub-element (prong 3) may be met by thestate’s confirmation in a SIP submission that new major sources and major modifications in thestate are subject to PSD and (if the state contains a nonattainment area for the relevant pollutant)NNSR programs that implement the 2010 1-hour SO2 NAAQS.36The sub-element providing for protection of visibility (prong 4) undersection 110(a)(2)(D)(i)(II) may be met by the state’s confirmation that an approved regional hazeSIP (or FIP) is in place. The development of the regional haze SIPs occurred in a collaborativeenvironment among the states. Through this process, the states coordinated on emissionscontrols to protect visibility on an interstate basis. The regional haze rule also specificallyrequires that a state participating in a regional planning process include "all measures needed toachieve its apportionment of emission reduction obligations agreed upon through that process."37We anticipate that an approved regional haze SIP (or FIP) addressing this requirement willensure that emissions from sources within the state are not interfering with measures to protectvisibility in other states. |  |
| **§110(a)(2)(D)(ii)****Interstate and international pollution** | *(ii) insuring compliance with the applicable requirements of sections 126 and 115 (relating to interstate and international pollution abatement);* | Section 126(a) of the CAA directs each SIP to include provisions requiring a new ormodified source to notify neighboring states of potential impacts from the source. States withSIP-approved PSD programs should have a regulatory provision in place, consistent with 40CFR 51.166(q)(2)(iv), that requires such notification of other state and local agencies……Sections 126(b) and 126(c) of the CAA affect a state only if the Administrator has beenpetitioned to make a finding of violation that is related to either interstate transport orinternational transport of emissions from sources in the state. Thus, unless a state has been thesubject of such a petition, the state has no continuing obligations under sections 126(b) or 126(c).Section 115 of the CAA authorizes the Administrator to require a state to revise its SIPunder certain conditions to alleviate international transport. Because there are no pendingactions pursuant to section 115 of the CAA, at this time EPA has no reason to approve ordisapprove any existing state rules with regard to section 115 provisions. |  |
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**VI. Transition from the existing SO2 NAAQS to a revised SO2 NAAQS**

In implementing the new 1-hour SO2 NAAQS, states will need to insure that the health

protection provided under the prior SO2 NAAQS continues to be achieved as well as maintained.

This means that states should continue implementing attainment and maintenance SIPs

associated with the prior 24-hour and annual primary SO2 NAAQS until such time as they are

subsumed by any new EPA-approved SIPs reflecting planning and control requirements

associated with the new NAAQS. In the final SO2 NAAQS, EPA provided that the prior 24-hour and annual primary SO2

NAAQS will remain in effect for one year following the effective date of the initial area

designations under section 107(d)(1) for the new SO2 NAAQS before being revoked in most

attainment areas. (40 CFR 50.4(e)). Any existing SIP provisions under CAA sections 110, 191

and 192 associated with the annual and 24-hour SO2 NAAQS would need to remain in effect,

even after the 24-hour and annual primary SO2 NAAQS are no longer in effect, including all

currently implemented planning and emissions control obligations. …This will ensure that both

the new nonattainment NSR requirements and the general conformity requirements for a revised

standard are in place so that there will be no gap in the public health protections provided by these two programs. It will also ensure that all nonattainment areas under the annual and/or 24-

hour NAAQS and all areas for which SIP calls have been issued will continue to be protected by

currently required control measures.

It is important to understand that for PSD purposes, even after the time that the annual

and 24-hour SO2 NAAQS are no longer in effect, the annual and 24-hour SO2 increments

contained in the CAA and PSD regulations will remain in effect. Thus, the owner or operator of

a new or modified source will still be required to demonstrate compliance with the annual and

24-hour SO2 increments, even when the corresponding SO2 NAAQS no longer apply. The

annual and 24-hour increments are established in section 163 of the CAA. Thus, they remain

applicable even after EPA has revoked the SO2 NAAQS for the annual and 24-hour averaging

times. EPA does not believe that it can eliminate the annual and 24-hour SO2 increments

without appropriate legislative changes to the statutory SO2 increments.

(pp 32-33: <http://www.epa.gov/airquality/sulfurdioxide/pdfs/DraftSO2Guidance_9-22-11.pdf> )

If a state believes that its existing (already approved) infrastructure SIP is adequate with

respect to one or more section 110(a)(2) infrastructure elements (or sub-elements), then the

state's SIP submission may be a certification that the existing SIP contains provisions that fully

address those section 110(a)(2) infrastructure elements (or sub-elements) as applicable for the

2010 1-hour SO2 NAAQS.26 (26 This certification does not serve as a demonstration for purposes of CAA section 110(l) that the state has in fact

attained and maintained the 1-hour SO2 NAAQS. That demonstration, which is part of a required attainment plan

for unclassifiable areas, is specific to the 2010 1-hour SO2 NAAQS and is addressed elsewhere in our

implementation guidance.)

Two elements identified in section 110(a)(2) include requirements that are not governed

by the 3-year submission deadline of section 110(a)(1). The requirements pertain to part D, of

title I of the CAA, which addresses plan requirements for nonattainment areas. Therefore, the

following section 110(a)(2) elements are considered by EPA to be outside the scope of

infrastructure SIP actions: (1) section 110(a)(2)(C) to the extent it refers to permit programs

(known as "nonattainment new source review") required under part D; and

(2) section 110(a)(2)(I) in its entirety. EPA does not expect infrastructure SIP submittals to

include regulations or emission limits developed specifically for attaining the relevant standard.

Those submittals are due at the time the nonattainment area planning requirements are due

(18 months following designation). (B-2: <http://www.epa.gov/airquality/sulfurdioxide/pdfs/DraftSO2Guidance_9-22-11.pdf> )

1. <http://www.epa.gov/airquality/sulfurdioxide/pdfs/DraftSO2Guidance_9-22-11.pdf> [↑](#footnote-ref-1)