

Technical Support Document (TSD)
for the Supplemental Proposal to the Transport Rule
Docket ID No. EPA-HQ-OAR-2009-0491

**Status of 110(a)(2)(D)(i)(I) SIPs
Proposed Rule TSD**

U.S. Environmental Protection Agency
Office of Air and Radiation
July 2011

Status of 110(a)(2)(D)(i)(I) SIPs

This document describes, for the states of Iowa, Kansas, Michigan, Missouri, Oklahoma and Wisconsin, the status of each 110(a)(2)(D)(i)(I) state implementation plan (SIP) for the 1997 ozone NAAQS for Iowa, Kansas, Michigan, Missouri, Oklahoma, and Wisconsin. It describes any findings of failure to submit 110(a)(2)(D)(i)(I) SIPs for the 1997 ozone NAAQS made by EPA for these states, and any actions taken by EPA with respect to 110(a)(2)(D)(i)(I) SIP submissions for the 1997 ozone NAAQS received from these states. The facts presented in this TSD support EPA's conclusion that it has a legal obligation to promulgate each of the FIPs proposed in this SNPR.

Iowa

On April 25, 2005 EPA made a finding of failure to submit a SIP to address the requirements of CAA section 110(a)(2)(D)(i) with respect to the 1997 ozone NAAQS (70 FR 21147) and has not, subsequent to that date, received and approved a SIP revision to correct the deficiency. On August 15, 2006, Iowa submitted a SIP revision to, among other things, replace the CAIR FIP for the 1997 ozone NAAQS in Iowa. This SIP revision incorporated the CAIR trading program for ozone-season NO_x into the Iowa SIP. As noted in the preamble to the Transport Rule, following the D.C. Circuit decision in North Carolina (North Carolina v. EPA), 531 F.3d 896 (D.C. Cir. 2008), modified on rehearing, North Carolina v. EPA, 550 F.3d 1176, 1178 (D.C. Cir. 2008), this CAIR SIP which was approved by EPA on August 6, 2007 (72 FR 43539), cannot be said to correct the 110(a)(2)(D)(i)(I) deficiency identified in the April 25, 2005 finding of failure to submit. In addition, in the final Transport Rule action signed by the Administrator on July 6, 2011, EPA corrects and narrows its approval of that SIP submittal. Based on these facts, the provisions of section CAA 110(c)(1) establish that the Administrator shall promulgate a FIP for the state of Iowa addressing the requirements of 110(a)(2)(D)(i)(I) with respect to the 1997 ozone NAAQS.

Kansas

On April 25, 2005 EPA made a finding of failure to submit a SIP to address the requirements of CAA section 110(a)(2)(D)(i) with respect to the 1997 ozone NAAQS. (See 70 FR 21147.) Subsequent to that date, Kansas submitted and EPA approved a SIP revision (72 FR 10608) to correct the deficiency. This SIP revision did not rely on participation in any CAIR trading programs or compliance with any budgets established in CAIR to satisfy the requirements of section 110(a)(2)(D)(i)(I). This SIP approval was not directly affected by the decision of the D.C. Circuit in North Carolina v. EPA. In 2010, EPA conducted modeling for the proposed Federal Implementation Plan to Reduce Interstate Transport of Fine Particulate Matter and Ozone (Transport Rule). (See 75 FR 45210, August 2, 2010.) This modeling demonstrated that emissions from Kansas interfere with maintenance of the 1997 ozone NAAQS in another State. Therefore, EPA proposed to determine that the Kansas SIP is substantially inadequate to satisfy the requirements of section 110(a)(2)(D)(i)(I) of the Clean Air Act with respect to the 1997 ozone NAAQS. Specifically, on January 6, 2011, EPA proposed a SIP Call for Kansas, pursuant to section 110(k)(5) of the Act (76 FR 763). EPA conducted modeling for the final Transport Rule (signed by the Administrator on July 6, 2011) which demonstrated that emissions

from Kansas interfere with maintenance of the 1997 ozone NAAQS in another state. If finalized as proposed, the SIP Call would require Kansas to either submit a SIP within 18 months or notify EPA that the state would prefer to be subject to the FIP addressing the requirements of 110(a)(2)(D)(i)(I) with respect to the 1997 ozone NAAQS.

Michigan

On April 25, 2005 EPA made a finding of failure to submit a SIP to address the requirements of CAA section 110(a)(2)(D)(i) with respect to the 1997 ozone NAAQS (70 FR 21147) and has not, subsequent to that date, received and approved a SIP revision to correct the deficiency. On July 16, 2007, Michigan submitted an abbreviated CAIR SIP revision to, among other things, modify the CAIR FIP for the 1997 ozone NAAQS; on June 10, 2009, Michigan submitted a revised abbreviated SIP revision. EPA approved these abbreviated SIP revisions on December 20, 2007 (72 FR 72256) and August 18, 2009 (74 FR 41637). As noted in the preamble to the Transport Rule, the abbreviated SIPs approved by EPA modified but did not replace the CAIR FIPs promulgated by EPA. Following approval of the abbreviated CAIR SIP, the CAIR FIP remained the legal vehicle for implementation of the CAIR requirements in Michigan. The CAIR FIPs were all found unlawful and remanded to EPA to be replaced by rules consistent with the D.C. Circuit decision in North Carolina. EPA's approval of an abbreviated CAIR SIP thus has no impact on EPA's authority and obligation to promulgate a FIP to correct the 110(a)(2)(D)(i)(I) deficiency identified in the April 25, 2005 finding of failure to submit. Based on these facts, the provisions of section CAA 110(c)(1) establish that the Administrator shall promulgate a FIP for the state of Michigan addressing the requirements of 110(a)(2)(D)(i)(I) with respect to the 1997 ozone NAAQS.

Missouri

On April 25, 2005 EPA made a finding of failure to submit a SIP to address the requirements of CAA section 110(a)(2)(D)(i) with respect to the 1997 ozone NAAQS (70 FR 21147) and has not, subsequent to that date, received and approved a SIP revision to correct the deficiency. On May 18, 2007, Missouri submitted a SIP revision to, among other things, replace the CAIR FIP for the 1997 ozone NAAQS in Missouri. This SIP revision incorporated the CAIR trading program for ozone-season NO_x into the Missouri SIP. As noted in the preamble to the Transport Rule, following the D.C. Circuit decision in North Carolina, this CAIR SIP which was approved by EPA on December 14, 2007 (72 FR 71073), cannot be said to correct the 110(a)(2)(D)(i)(I) deficiency identified in the April 25, 2005 finding of failure to submit. In addition, in the final Transport Rule action signed by the Administrator on July 6, 2011, EPA corrects and narrows its approval of that SIP submittal. Based on these facts, the provisions of section CAA 110(c)(1) establish that the Administrator shall promulgate a FIP for the state of Missouri addressing the requirements of 110(a)(2)(D)(i)(I) with respect to the 1997 ozone NAAQS.

Oklahoma

On April 25, 2005 EPA made a finding of failure to submit a SIP to address the requirements of CAA section 110(a)(2)(D)(i) with respect to the 1997 ozone NAAQS (70 FR 21147) and has not, subsequent to that date, received and approved a SIP revision to correct the deficiency. Based on this fact, the provisions of section CAA 110(c)(1) establish that the Administrator shall promulgate a FIP for the state of Oklahoma addressing the requirements of 110(a)(2)(D)(i)(I) with respect to the 1997 ozone NAAQS.

Wisconsin

On April 25, 2005 EPA made a finding of failure to submit a SIP to address the requirements of CAA section 110(a)(2)(D)(i) with respect to the 1997 ozone NAAQS (70 FR 21147) and has not, subsequent to that date, received and approved a SIP revision to correct the deficiency. On June 19, 2007, Wisconsin submitted an abbreviated CAIR SIP revision to modify the CAIR FIP for the 1997 ozone NAAQS, which EPA approved on October 16, 2007 (72 FR 58542). As noted in the preamble to the Transport Rule, the abbreviated SIPs approved by EPA modified but did not replace the CAIR FIPs promulgated by EPA. Following approval of the abbreviated CAIR SIP, the CAIR FIP remained the legal vehicle for implementation of the CAIR requirements in Wisconsin. The CAIR FIPs were all found unlawful and remanded to EPA to be replaced by rules consistent with the D.C. Circuit decision in North Carolina. EPA's approval of an abbreviated CAIR SIP thus has no impact on EPA's authority and obligation to promulgate a FIP to correct the 110(a)(2)(D)(i)(I) deficiency identified in the April 25, 2005 finding of failure to submit. Based on these facts, the provisions of section CAA 110(c)(1) establish that the Administrator shall promulgate a FIP for the state of Wisconsin addressing the requirements of 110(a)(2)(D)(i)(I) with respect to the 1997 ozone NAAQS.