



**MID-STATES
CORRIDOR**

APPENDIX SS – AIR QUALITY CONFORMITY DETERMINATION

Mid-States Corridor Tier 1 Environmental Impact Statement

Prepared for

Indiana Department of Transportation
Mid-States Corridor Regional Development Authority

AUGUST 14, 2023

Prepared by

Mid-States Corridor Project Consultant





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INTRODUCTION

The selected alternative for the Mid-States Tier I EIS is **Refined Preferred Alternative P (RPA P)**. RPA P impacts Greene County, Indiana. On February 16, 2018, the United States Court of Appeals for the District of Columbia Circuit in *South Coast Air Quality Mgmt. District v. EPA* (“*South Coast II*,” 882 F.3d 1138) held that transportation conformity determinations must be made in areas that were either nonattainment or maintenance for the 1997 ozone national ambient air quality standard (NAAQS) and attainment for the 2008 ozone NAAQS when the 1997 ozone NAAQS was revoked. These conformity determinations are required in these areas after February 16, 2019. Greene County was *maintenance* at the time of the 1997 ozone NAAQS revocation on April 6, 2015 and was also designated attainment for the 2008 ozone NAAQS on May 21, 2012. Therefore, per the *South Coast II* decision, a conformity determination was made for the 1997 ozone NAAQS on the Mid-States Corridor project in Greene County.

This Appendix documents the conformity determination. It includes these documents:

- The June 2023 Transportation Conformity Determination Report (Report) for Greene County prepared by the Indiana Department of Transportation (INDOT).
- The Notice of Conformity Requirements (Notice) advising the public and interested parties of the availability of the Report.
- Comments submitted in response to the Notice.
- The Finding of Conformity by the Federal Highway Administration (FHWA) dated August 14, 2023.

AIR QUALITY CONFORMITY REPORT

The Report is reproduced in its entirety beginning on the following page.



Transportation Conformity Determination Report for the 1997 ozone NAAQS

The Indiana Department of Transportation

Greene County

Mid-States Corridor Project

Prepared by:

Indiana Department of Transportation

100 N. Senate Ave., IGCN

Indianapolis, IN 46204

June 2023



Acknowledgements

This *Transportation Conformity Report* for Greene County was prepared by Indiana Department of Transportation (INDOT). Individuals from the following agencies contributed their efforts towards the completion of the Transportation Conformity Determination Report. They include:

- Federal Highway Administration (FHWA)
- United States Environmental Protection Agency (EPA)
- Federal Transit Administration (FTA)
- Indiana Department of Environmental Management (IDEM)
- Indiana Department of Transportation (INDOT)

Executive Summary

As part of its transportation planning process, The Indiana Department of Transportation completed the transportation conformity process for Mid-States Corridor project which includes a segment in Greene County. This report documents that the project meets the federal transportation conformity requirements in 40 CFR Part 93.

Clean Air Act (CAA) section 176(c) (42 U.S.C. 7506(c)) requires that federally funded or approved highway and transit activities are consistent with (“conform to”) the purpose of the State Implementation Plan (SIP).

Conformity to the purpose of the SIP means that transportation activities will not cause or contribute to new air quality violations, worsen existing violations, or delay timely attainment of the relevant NAAQS or any interim milestones. 42 U.S.C. 7506(c)(1). EPA’s transportation conformity rules establish the criteria and procedures for determining whether metropolitan transportation plans, transportation improvement programs (TIPs), and federally supported highway and transit projects conform to the SIP. 40 CFR Parts 51.390 and 93.

On February 16, 2018, the United States Court of Appeals for the District of Columbia Circuit in *South Coast Air Quality Mgmt. District v. EPA* (“*South Coast II*,” 882 F.3d 1138) held that transportation conformity determinations must be made in areas that were either nonattainment or maintenance for the 1997 ozone national ambient air quality standard (NAAQS) and attainment for the 2008 ozone NAAQS when the 1997 ozone NAAQS was revoked. These conformity determinations are required in these areas after February 16, 2019. Greene County was *maintenance* at the time of the 1997 ozone NAAQS revocation on April 6, 2015 and was also designated attainment for the 2008 ozone NAAQS on May 21, 2012. Therefore, per the *South Coast II* decision, this conformity determination is being made for the 1997 ozone NAAQS on the Mid-States Corridor project in Greene County.



This conformity determination was completed consistent with CAA requirements, existing associated regulations at 40 CFR Parts 51.390 and 93, and the *South Coast II* decision, according to EPA’s *Transportation Conformity Guidance for the South Coast II Court Decision* issued on November 29, 2018.

1.0 Background and Conformity Process

The concept of transportation conformity was introduced in the Clean Air Act (CAA) of 1977, which included a provision to ensure that transportation investments conform to a State implementation plan (SIP) for meeting the Federal air quality standards. Conformity requirements were made substantially more rigorous in the CAA Amendments of 1990. The transportation conformity regulations that detail implementation of the CAA requirements were first issued in November 1993, and have been amended several times. The regulations establish the criteria and procedures for transportation agencies to demonstrate that air pollutant emissions from metropolitan transportation plans, transportation improvement programs and projects are consistent with (“conform to”) the State’s air quality goals in the SIP. This document has been prepared for State and local officials who are involved in decision making on transportation investments.

Transportation conformity is required under CAA Section 176(c) to ensure that Federally-supported transportation activities are consistent with (“conform to”) the purpose of a State’s SIP. Transportation conformity establishes the framework for improving air quality to protect public health and the environment. Conformity to the purpose of the SIP means Federal Highway Administration (FHWA) and Federal Transit Administration (FTA) funding and approvals are given to highway and transit activities that will not cause new air quality violations, worsen existing air quality violations, or delay timely attainment of the relevant air quality standard, or any interim milestone.

On December 29, 2005, the EPA, in 70 FR 69085, published the final rule for the Greene County, Indiana area establishing a determination of attainment and a re-designation of Greene County to attainment of the 8-hour ozone standard. Greene County, Indiana was defined as an orphan maintenance area in the court decision as the region was a maintenance area for the 1997 Ozone NAAQS at the time of its revocation (80 FR 12264, March 6, 2015) and was designated attainment for the 2008 Ozone NAAQS in EPA’s original designations for the NAAQS (77 FR 30160, May 21, 2012).

2.0 Mid-States Corridor Project in Greene County

The Mid-States Corridor extends 54 miles from I-64/US 231 to I-69 at the existing US 231 interchange. The Refined Preferred Alternative P begins at the I-64/US 231 interchange and travels east of Huntingburg and Jasper, avoiding developed areas near these cities. From north of Haysville the corridor parallels the existing US 231 alignment to the west then includes multiple Loogootee bypass variations as well as a variation on existing US 231 through Loogootee. The corridor then passes West Boggs Lake to the east, then continues north generally paralleling US 231 to the west before ending at the existing I-69 interchange at US 231 in Greene County. A total of nine local improvements on existing US 231 are included with the new corridor. The corridor improvement will include a divided 4-lane cross section (expressway) or an improved 2-lane cross section with passing lanes (super-2), which will be determined during the Tier 2 NEPA studies.

The Purpose of the Mid-States Corridor project is to provide an improved transportation link between the US 231/SR 66 intersection and I-69 (either directly or via SR 37) which:



- Improves business and personal regional connectivity in Dubois County and Southern Indiana.
- Improves highway connections to existing major multi-modal locations from Southern Indiana.

The Refined Preferred Alternative P performed highly in several core goal benefits presented. These included the sum of time saved to key destinations at 25 to 43 minutes, the sum of time saved to major multi-modal centers at 23 to 35 minutes and annual truck hours saved at 8,400 to 36,850. This alternative has a moderate level of impact to key natural resources. The corridor is a project of regional significance and with the northern 0.9 of a mile within Greene County it is within the Green County Orphan Maintenance Area for the 1997 Ozone NAAQS. The project is in agreement with the INDOT Long-Range Transportation Plan.

3.0 Transportation Conformity Determination: General Process

Per the court's decision in *South Coast II*, beginning February 16, 2019, a transportation conformity determination for the 1997 ozone NAAQS will be needed in 1997 ozone NAAQS nonattainment and maintenance areas identified by EPA¹ for certain transportation activities, including non-exempt FHWA/FTA projects in isolated rural orphan areas. Once US DOT makes its 1997 ozone NAAQS conformity determination for the State Route 54 Added Passing Lane project, conformity will be required no less frequently than every four years. This conformity determination report will address transportation conformity for this project in Greene County.

4.0 Transportation Conformity Requirements

4.1 Overview

On November 29, 2018, EPA issued **Transportation Conformity Guidance for the South Coast II Court Decision**² (EPA-420-B-18-050, November 2018) that addresses how transportation conformity determinations can be made in areas that were nonattainment or maintenance for the 1997 ozone NAAQS when the 1997 ozone NAAQS was revoked, but were designated attainment for the 2008 ozone NAAQS in EPA's original designations for this NAAQS (May 21, 2012).

The transportation conformity regulation at 40 CFR 93.109 sets forth the criteria and procedures for determining conformity. The conformity criteria for non-exempt FHWA/FTA projects in isolated rural orphan areas include: latest planning assumptions (93.110), latest emissions model (93.111), consultation (93.112), transportation control measures (93.113(d)), Currently conforming plan and TIP (93.114), CO, PM₁₀ and PM_{2.5} hot spots (93.116), PM₁₀ and PM_{2.5} control measure (93.117), and emissions budget and/or interim emissions (93.118 and/or 93.119).

For the 1997 ozone NAAQS areas, transportation conformity for the 1997 ozone NAAQS can be demonstrated without a regional emissions analysis, per 40 CFR 93.109(c). This provision states that the regional emissions analysis requirement applies one year after the effective date of EPA's nonattainment designation for a NAAQS and until the effective date of revocation of such NAAQS for an

¹ The areas identified can be found in EPA's "Transportation Conformity Guidance for the South Coast II Court Decision, EPA-420-B-18-050, available on the web at: www.epa.gov/state-and-local-transportation/policy-and-technical-guidance-state-and-local-transportation

² Available from <https://www.epa.gov/sites/production/files/2018-11/documents/420b18050.pdf>



area. The 1997 ozone NAAQS revocation was effective on April 6, 2015, and the South Coast II court upheld the revocation. As no regional emission analysis is required for this conformity determination, there is no requirement to use the latest emissions model, or budget or interim emissions tests. Furthermore, the hot-spot analysis requirement (93.116) and PM control measures requirement (93.117) apply only for PM NAAQS.

Therefore, transportation conformity for the 1997 ozone NAAQS for the Mid-States Corridor project in Greene County can be demonstrated by showing the remaining requirements in Table 1 in 40 CFR 93.109 have been met. These requirements, which are laid out in Section 2.7 of EPA's guidance and addressed below, include:

- Latest planning assumptions (93.110)
- Consultation (93.112)
- Transportation Control Measures (93.113)

4.2 Latest Planning Assumptions

The latest planning assumptions used for the Mid-States Corridor project included development of a regional travel demand model for the project based on the Indianan Statewide Travel Demand Model (ISTDM). The model was updated with added detail within the 12-county study area for the project, primarily around Dubois County. Updates based on US Census Bureau American Community Survey data were incorporated in coordination with INDOT Planning, which included major population centers outside of the 12-county area.

The model horizon year projections (2045) were based on extrapolations of past trends documented by INDOT and US Census Data, which were reviewed and incorporated into the model in coordination with INDOT Planning. The complete modeling documentation including all assumptions is detailed in the Mid-States Corridor Tier 1 DEIS Appendix T. (<https://midstatescorridor.com/wp-content/uploads/2022/04/Appendix-T-Travel-Forecasting-Model-Documentation.pdf>)

The use of latest planning assumptions in 40 CFR 93.110 of the conformity rule generally apply to regional emissions analysis. In the 1997 ozone NAAQS areas, the use of latest planning assumptions requirement applies to assumptions about transportation control measures (TCMs) in an approved SIP.

The Indiana SIP does not include any TCMs for the Greene County Orphan Maintenance Area, see also Section 4.4.

4.3 Consultation Requirements

The consultation requirements in 40 CFR 93.112 were addressed both for interagency consultation and public consultation.

An Interagency Consultation Group (ICG), including FHWA, EPA, FTA, IDEM and INDOT, is reviewing the draft copy of this document concurrent with a 15-day public comment period to ensure all requirements of the conformity determination have been met. The ICG members have the opportunity to request a conference call should an agency want to discuss the document with the ICG.



Public consultation is being conducted consistent with planning rule requirements in 23 CFR 450. The document will be publicized in accordance with the INDOT's Public Involvement Process including posting in two Greene County papers for a notice period of fifteen days, after initial ICG consultation.

4.4 Timely Implementation of TCMs

The Indiana SIP does not include any TCMs for the Greene County Orphan Maintenance Area.

Conclusion

The conformity determination process completed for the Mid-States Corridor project in Greene County demonstrates that this project meets the Clean Air Act and Transportation Conformity rule requirements for the 1997 ozone NAAQS.



NOTICE OF CONFORMITY REQUIREMENTS

The Notice of Conformity Requirements (Notice) was published on June 16 in the Greene County Daily World. This is the only daily newspaper published in Greene County. This Notice advised the public and interested parties of the availability of the preceding report and provided email and U.S. contact information to submit comments. The Notice is reproduced in its entirety on the following page.

Beginning on June 16, the Report was available for review on both the INDOT and Mid-States Corridor web sites at the locations cited in the Notice.



INDIANA DEPARTMENT OF TRANSPORTATION

100 North Senate Avenue
Room N758
Indianapolis, Indiana 46204

Eric Holcomb, Governor
Michael Smith, Commissioner

NOTICE OF TRANSPORTATION CONFORMITY REQUIREMENTS FOR US 231 MID-STATES CORRIDOR PROJECT IN GREENE COUNTY

The Indiana Department of Transportation (INDOT) has prepared a transportation conformity determination report for the Mid-States Corridor which includes a segment of US 231 in Greene County, Indiana. The transportation conformity report documents that the project meets the federal transportation conformity requirements in 40 CFR Part 93. This report was prepared with coordination from the Federal Highway Administration (FHWA), the United States Environmental Protection Agency (EPA), the Federal Transit Administration (FTA) and the Indiana Department of Environmental Management (IDEM).

The Mid-States Corridor extends 54 miles from I-64/US 231 to I-69 at the existing US 231 interchange. The Purpose of the Mid-States Corridor project is to provide an improved transportation link between the US 231/SR 66 intersection and I-69 which improves business and personal regional connectivity in Dubois County and Southern Indiana and improves highway connections to existing major multi-modal locations from Southern Indiana. A total of nine local improvements on existing US 231 are included with the new corridor. The corridor improvement will include a divided 4-lane cross section (expressway) or an improved 2-lane cross section with passing lanes (super-2), which will be determined during the Tier 2 NEPA studies.

Clean Air Act (CAA) section 176(c) (42 U.S.C. 7506(c)) requires that federally funded or approved highway and transit activities are consistent with (“conform to”) the purpose of the State Implementation Plan (SIP). Conformity to the purpose of the SIP means that transportation activities will not cause or contribute to new air quality violations, worsen existing violations, or delay timely attainment of the relevant NAAQS or any interim milestones. 42 U.S.C. 7506(c) (1). EPA’s transportation conformity rules establish the criteria and procedures for determining whether metropolitan transportation plans, transportation improvement programs (TIPs), and federally supported highway and transit projects conform to the SIP. 40 CFR Parts 51.390 and 93.

The transportation conformity report for the Greene County segment of the Mid-States Corridor Project is available for review at the following locations:

- INDOT web page: <https://www.in.gov/indot/projects/home/mid-states-corridor/>
<https://midstatescorridor.com/>
- Mid-States Corridor Project Office, Vincennes University Jasper Campus, Administration Building, Room 202, 850 College Avenue, Jasper, IN 47546

INDOT is accepting public comment regarding this determination. **Please reply no later than July 1, 2023** to Jason DuPont, jdupont@midstatescorridor.com, Mid-States Corridor Project Office, Vincennes University Jasper Campus, Administration Building, Room 202, 850 College Avenue, Jasper, IN 47546; Phone 1-812-459-4403 or 1-855-463-6848 (1-855-INDOT4U).

The conformity determination process completed for the Mid-States Corridor project in Greene County demonstrates that this project meets the Clean Air Act and Transportation Conformity rule requirements for the 1997 ozone NAAQS.



COMMENTS ON CONFORMITY DETERMINATION NOTICE

One comment was received from a member of the public. It is reproduced in its entirety on the following page. Also provided is the response from Mid-States project staff.



From: Jason DuPont <JDupont@lochgroup.com>
Sent: Wednesday, June 28, 2023 2:00:27 PM
To: Mark Nowotarski <148markn@gmail.com>
Cc: Jason DuPont <jdupont@midstatescorridor.com>; Corbin, Daniel <dcorbin@indot.in.gov>
Subject: RE: Greene County Transportation Conformity Requirements


Mr. Nowotarski,

Thank you for reaching out so I can clear up any confusion. Air quality analysis has been performed for the entire 12-county study area and will be available in the Final Environmental Impact Statement. The report released earlier this month is specific to Greene County because Greene County is identified as a maintenance area associated with the 1997 ozone national ambient air quality standard (NAAQS). While the 1997 ozone NAAQS was revoked, this process is still required by USEPA to demonstrate conformity with air quality standards. While the Mid-States Corridor Tier 1 Study evaluated air quality for the entire project area, the formal report was only required to document the determination process in Greene County.

Additional information about the revoked 1997 ozone standard and why Greene County remains subject to air quality conformity can be found in the USEPA's publication titled [Transportation Conformity Guidance for the South Coast II Court Decision](#).

Jason DuPont
Project Manager
Mid-States Corridor

Jason DuPont, PE
Director of Environmental Services
Lochmueller Group

 **Direct:** [812.759.4129](tel:812.759.4129)
Mobile: [812.459.4403](tel:812.459.4403)

From: Mark Nowotarski <148markn@gmail.com>
Sent: Sunday, June 25, 2023 6:01 PM
To: Jason DuPont <jdupont@midstatescorridor.com>
Subject: Greene County Transportation Conformity Requirements

Jason,

Again, a little bit of confusion. We have read through the conformity report for Greene County. That section of the proposed project only represents .9 miles of the total 54 miles. Why is this being reported when there hasn't been any reports specific to Dubois and Martin counties when those are the two counties being impacted the most?

In the DEIS in section 3.9 it states - "Air Quality conformity analysis for selected county(ies) within the 12-county Study Area will be provided in the Final Environmental Impact Statement (FEIS)."

We are wondering if the Study is using Greene County as the "selected" county and it is not doing any other Air Quality conformity analysis. Please clarify.

Sincerely,
Mark Nowotarski
Coalition Against the Mid-States Corridor



FHWA FINDING OF CONFORMITY

On August 14, 2023, FHWA made its formal conformity finding for this project. The FHWA conformity finding response along with the INDOT formal request for the conformity determination are included on the following page.



From: [Tait, Erica \(FHWA\)](#)
To: [Mitchell, Jay](#)
Cc: [Corbin, Daniel](#); [Jason DuPont](#); [Herrell, Michelle \(FHWA\)](#); [Carpenter, Patrick \(FHWA\)](#); [sseals.idem.in.gov](#); [Mitchell, Jay](#); [maietta.anthony@epa.gov](#); [Crenshaw, Cecilia \(FTA\)](#)
Subject: RE: Request for a formal air quality conformity finding for the Tier 1 Environmental Impact Statement for the Mid-States Corridor
Date: Monday, August 14, 2023 2:00:25 PM
Attachments: [image001.png](#)

EXTERNAL

Good afternoon Jay,

I hope this note finds you well.

In accordance with the air quality conformity procedures adopted by the Indiana Interagency Consultation Group (ICG), the documents necessary for air quality conformity consultation regarding the Mid-States Corridor have been developed and reviewed. Since Greene County is currently only subject to 1997 Ozone related to the South Coast II court decision, no regional emissions analysis is required. The ICG has reviewed the information provided and concurs that the documentation meets the remaining applicable requirements outlined in 40 CFR 93.109-119. The conformity documentation should be included in the Tier I document. No further action is required at this time.

Best regards,

Erica Tait

Planning, Environment, Air Quality and Realty Team Leader
Federal Highway Administration, Indiana Division | U.S. Department of Transportation
575 N. Pennsylvania Street, Suite 254 | Indianapolis, IN 46204
317.226.7481
erica.tait@dot.gov



From: Mitchell, Jay <JAYMITCHELL@indot.IN.gov>
Sent: Friday, July 7, 2023 3:23 PM
To: Tait, Erica (FHWA) <erica.tait@dot.gov>; Carmany-George, Karstin (FHWA) <k.carmanygeorge@dot.gov>; Carpenter, Patrick (FHWA) <patrick.carpenter@dot.gov>
Cc: Corbin, Daniel <DCorbin@indot.IN.gov>; Jason DuPont <jdupont@lochgroup.com>
Subject: Request for a formal air quality conformity finding for the Tier 1 Environmental Impact



Statement for the Mid-States Corridor

CAUTION: This email originated from outside of the Department of Transportation (DOT). Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Hello Erica:

The Indiana Department of Transportation (INDOT) is requesting a formal air quality conformity finding for the Tier 1 Environmental Impact Statement for the Mid-States Corridor project (DES# 1801941). The Mid-States Corridor, a non-exempt, regionally significant project, examines an improved highway connection in southern Indiana. It will begin at SR 66 near the William H. Natcher Bridge crossing the Ohio River at Rockport, continue generally through the Huntingburg and Jasper area and extend north to connect to Interstate 69. The northern-most section of 0.9 miles of the preferred alternative is proposed in Greene County along existing US 231 from the Greene/Daviess County line to the US 231/I-69 interchange. It is within the Greene County Orphan Maintenance area for the 1997 Ozone NAAQS and is subject to the South Coast II 1997 Ozone Court Decision. Additionally, it is in agreement with the INDOT Long-Range Transportation Plan. INDOT has been advised that the preferred alternative will require an air quality conformity determination for the Tier 1 Record of Decision. Additional analysis will be conducted as a part of Tier 2 NEPA studies.

On June 2nd early, informal ICG coordination was initiated. On June 15th INDOT received a comment back from FHWA stating that it had some questions about the planning assumptions requirement and was requesting a meeting or call to discuss the planning assumptions. In response to FHWA's request, an ICG meeting was conducted on June 27th to review and clarify the planning assumption requirement. The air quality public involvement took place and one comment was received.

The Mid-States Corridor Transportation Conformity Report is attached along with documentation of the ICG coordination and public comment/response containing:

- The Mid-States Corridor Environmental Impact Statement Tier 1 Air Quality Conformity Report
- A copy of the June 2, 2023, ICG notice for early, informal coordination.
- The meeting summary for the June 27, 2023, ICG meeting to discuss the planning assumptions.
- A copy of the air quality public information notification (1 comment was received)
- The comment that was received during the air quality public involvement process and the response to the comment.

Also, below are links to additional information about the Mid-States Corridor Project.

<https://midstatescorridor.com/>

<https://midstatescorridor.com/deis/>

<https://midstatescorridor.com/rpap/>

Please let me know if you need anything else to initiate the process.



**MID-STATES
CORRIDOR**

App SS – Air Quality Conformity Appendix

Thank you.

Jay

Jay Mitchell, Supervisor

Technical Planning Section

Indiana Department of Transportation

100 N. Senate Avenue, Room N758

Indianapolis, IN 46204

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E-mail: jaymitchell@indot.in.gov