

KENTUCKY

STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM (STIP) For FY 2013-2016

AMENDMENT #2012.003

I. Proposed Action:

The Kentucky Transportation Cabinet (KYTC) hereby submits the attached resolution from the Ohio-Kentucky-Indiana Regional Council of Governments (OKI) which states that the OKI Board of Directors adopted the OKI Fiscal Years 2014-2017 Transportation Improvement Program (TIP) on April 11, 2013. The KYTC requests inclusion of the OKI's FY 2014-2017 TIP in the KYTC's FY 2013-2016 Statewide Transportation Improvement Program (STIP).

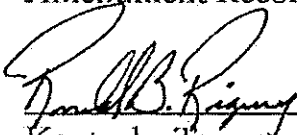
Location: OKI MPO Area

II. Additional Remarks:


Attached is a copy of the Governor's Designee approval letter, Resolution concerning the Certification of the Urban Transportation Planning Process from OKI's Board of Directors, Conformity Approval letters, and the Planning Finding.


III. Amendment Approval:

Amendment Recommended for Approval:


Kentucky Transportation Cabinet Date 7/17/13
Ronald B. Rigney, Director
Division of Program Management

Approval of STIP Amendment:


Federal Highway Administration Date 7/22/13


Recommended by Date 7/18/13

KENTUCKY

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For FY 2013-2016

AMENDMENT #2012.003

I. Proposed Action:

The Kentucky Transportation Cabinet (KYTC) hereby submits the attached resolution from the Ohio-Kentucky-Indiana Regional Council of Governments (OKI) which states that the OKI Board of Directors adopted the OKI Fiscal Years 2014-2017 Transportation Improvement Program (TIP) on April 11, 2013. The KYTC requests inclusion of the OKI's FY 2014-2017 TIP in the KYTC's FY 2013-2016 Statewide Transportation Improvement Program (STIP).

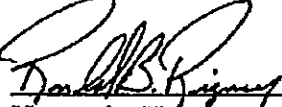
Location: OKI MPO Area

II. Additional Remarks:

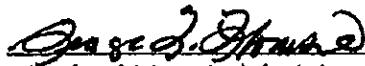
Attached is a copy of the Governor's Designee approval letter, Resolution concerning the Certification of the Urban Transportation Planning Process from OKI's Board of Directors, Conformity Approval letters, and the Planning Finding.

III. Amendment Approval:

Amendment Recommended for Approval:


Kentucky Transportation Cabinet Date 7/17/13
Ronald B. Rigney, Director
Division of Program Management

Approval of STIP Amendment:


Federal Transit Administration Date 7/26/13
Tom Thomson

RESOLUTION
OF THE BOARD OF DIRECTORS OF THE
OHIO-KENTUCKY-INDIANA REGIONAL COUNCIL OF GOVERNMENTS
CONCERNING
ADOPTION OF THE FY 2014 – 2017 TRANSPORTATION IMPROVEMENT
PROGRAM (TIP) AND THE
DETERMINATION OF THE CONSISTENCY OF THE
TRANSPORTATION IMPROVEMENT PROGRAM WITH
AIR QUALITY CONFORMITY REGULATIONS

WHEREAS, the Ohio-Kentucky-Indiana Regional Council of Governments ("OKI") is designated as the Metropolitan Planning Organization ("MPO") by the Governors of Ohio, Kentucky and Indiana acting through the Ohio Department of Transportation, the Kentucky Transportation Cabinet and the Indiana Department of Transportation, and in cooperation with locally elected officials for the Counties of Butler, Clermont, Hamilton and Warren in the State of Ohio, Boone, Campbell and Kenton in the Commonwealth of Kentucky, and Dearborn County in Indiana; and

WHEREAS, the MPO has, pursuant to 49 U.S.C. 5323 (k), 23 U.S.C. 135, and 23 CFR 450.220, developed the OKI Fiscal Years 2014 – 2017 Transportation Improvement Program, as a short-range element of the OKI 2040 Regional Transportation Plan; and

WHEREAS, the Ohio counties of Butler, Clermont, Hamilton and Warren, the Kentucky counties of Boone, Campbell and Kenton, and a portion of Dearborn County, Indiana have been classified as a nonattainment area for ozone and a maintenance area for PM_{2.5} and are subject to transportation conformity rules; and

WHEREAS, the OKI Fiscal Year 2014 – 2017 Transportation Improvement Program includes projects that are not exempt from transportation conformity requirements, but have been listed in the OKI 2040 Regional Transportation Plan (Metropolitan Transportation Plan), as amended, with no major changes to timing or scope, a new conformity determination is required but may rely on a previous emissions analysis; and

WHEREAS, the OKI Fiscal Years 2014 – 2017 Transportation Improvement Program is consistent with OKI's previous air quality regional emission analysis of January 10, 2013 and the US DOT, in consultation with the Environmental Protection Agency, found to conform to all applicable State Implementation Plans on February 19, 2013 and it has been determined through interagency consultation that OKI may rely on this previous regional emission analysis; and

WHEREAS, the environmental justice impacts of these amendments have been considered with "Executive Order 1212898 Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations"; and

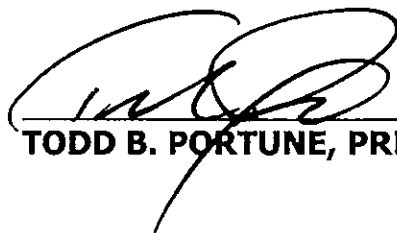
WHEREAS, the OKI Fiscal Years 2014 – 2017 Transportation Improvement Program has met the requirements of OKI's Public Participation Process; and

WHEREAS, the OKI Fiscal Years 2014 – 2017 Transportation Improvement Program will become effective concurrent with US DOT approval of the Fiscal Years 2014 – 2017 State Transportation Improvement Programs for Ohio, Kentucky and Indiana;

NOW, THEREFORE, BE IT RESOLVED:

1. That the OKI Board of Directors adopts the OKI Fiscal Years 2014 – 2017 Transportation Improvement Program as the short range element of the OKI 2040 Regional Transportation Plan for the Counties of Butler, Clermont, Hamilton and Warren in the State of Ohio; Boone, Campbell and Kenton in the Commonwealth of Kentucky; and Dearborn County in Indiana, and recommends that its members incorporate these improvements into their planning for transportation improvements in their governmental units; and
2. That the OKI Board of Directors hereby affirms the conformity between the OKI Fiscal Years 2014 – 2017 Transportation Improvement Program and the Ohio, Kentucky and Indiana State Implementation Plans.

So Resolved this 11th day of April, 2013.


TODD B. PORTUNE, PRESIDENT

4/11/2013

mrp



TRANSPORTATION CABINET

Frankfort, Kentucky 40622
www.transportation.ky.gov/

Steven L. Beshear
Governor

Michael W. Hancock, P.E.
Secretary

May 31, 2013

Mark Policinski
Executive Director
Ohio-Kentucky-Indiana Regional Council of Governments
720 Pete Rose Way, Suite 420
Cincinnati, OH 45202

Dear Mr. Policinski:

The Kentucky Transportation Cabinet (KYTC) has reviewed the Ohio-Kentucky-Indiana (OKI) Metropolitan Planning Organization's (MPO's) FY 2014-2017 Transportation Improvement Program (TIP) for compliance with the metropolitan planning requirements included in the Moving Ahead for Progress in the 21st Century Act (MAP-21).

It is my pleasure to approve the OKI MPO's FY 2014-2017 TIP as Governor Steve Beshear's Designee. The KYTC will incorporate the new TIP by reference in Kentucky's FY 2013-2016 Statewide Transportation Improvement Program (STIP).

Please contact Thomas Witt, at (502) 564-7183, for any questions or concerns.

Sincerely,

A large, stylized handwritten signature in black ink, appearing to read "Michael W. Hancock".

Michael W. Hancock
Secretary
Kentucky Transportation Cabinet

MWH/TWW/BCC

cc: John Ballantyne
Rob Hans
Keith Damron



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RESOLUTION
OF THE BOARD OF DIRECTORS
OF THE
OHIO-KENTUCKY-INDIANA REGIONAL COUNCIL OF GOVERNMENTS
CONCERNING
CERTIFICATION OF THE URBAN TRANSPORTATION
PLANNING PROCESS

WHEREAS, the Ohio-Kentucky-Indiana Regional Council of Governments (OKI) is designated as the Metropolitan Planning Organization (MPO) by the Governors of Ohio, Kentucky and Indiana, acting through the Ohio Department of Transportation (ODOT), the Kentucky Transportation Cabinet (KYTC) and Indiana Department of Transportation (INDOT) in cooperation with locally elected officials in the Cincinnati, Middletown urbanized areas as evidenced in the Agreement, number 3206, between ODOT and OKI dated July 1, 1979 and the Agreement between KYTC and OKI dated July 1, 1983 encompassing the Counties of Butler, Clermont, Hamilton and Warren in the State of Ohio, and Boone, Campbell and Kenton in the Commonwealth of Kentucky and Dearborn County Indiana; and

WHEREAS, the federal regulations pertaining to Urban Transportation Planning, published as 23 CFR 450.334, require the MPO, ODOT, KYTC and INDOT to certify that the transportation planning process cooperatively conducted is in conformance with the regulations; and

WHEREAS, the federal regulations also require that the metropolitan transportation planning process be carried out in accordance with all applicable requirements including:

- (1) 23 U.S.C. 134, 49 U.S.C. 5303;
- (2) Sections 174 and 176 (c) and (d) of the Clean Air Act, as amended (42 U.S.C. 7504, 7506 (c) and (d)) and 40 CFR part 93;
- (3) Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d-1) and 49 CFR part 21;
- (4) 49 U.S.C. 5332, prohibiting discrimination on the basis of race, color, creed, national origin, sex, or age in employment or business opportunity;
- (5) Section 1101(b) of the SAFETEA- LU (Pub. L. 109-59) and 49 CFR part 26 regarding the involvement of disadvantaged business enterprises in USDOT funded projects;
- (6) 23 CFR part 230, regarding the implementation of an equal employment opportunity program on Federal and Federal-aid highway construction contracts;
- (7) The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 *et seq.*) and 49 CFR parts 27, 37, and 38;
- (8) The Older Americans Act, as amended (42 U.S.C. 6101), prohibiting discrimination on the basis of age in programs or activities receiving Federal financial assistance;

- (9) Section 324 of title 23 U.S.C. regarding the prohibition of discrimination based on gender; and
- (10) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and 49 CFR part 27 regarding discrimination against individuals with disabilities.

WHEREAS, the United States Department of Transportation conducted an on-site certification review at the Ohio-Kentucky-Indiana Regional Council of Governments offices in December, 2012, and issued a subsequent finding, including five commendations, that the Ohio-Kentucky-Indiana Regional Council of Governments was fully certified as meeting all pertinent requirements;

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the Ohio-Kentucky-Indiana Regional Council of Governments, at its public meeting of April 11, 2013 certifies, in consideration of the requirements listed herein and to the degree appropriate for the size of the area and the complexity of its transportation problems, that the urban transportation planning process is being carried out in conformance with all the applicable federal requirements.



TODD B. PORTUNE, PRESIDENT

4/11/13
rwk



U.S. Department
of Transportation
Federal Highway
Administration

Memorandum

Subject: Letter of Support for Conformity
Determination

Date: June 17, 2013

From: Jose Sepúlveda, Division Administrator
HDA-KY
Frankfort, KY

To: Laurie Leffler, Division Administrator
HDA-OH
Columbus, OH

The Kentucky Division Office of the Federal Highway Administration (FHWA) in consultation with Region 4 of the United States Environmental Protection Agency (EPA), have reviewed the following document:

**2014-2017 Transportation Improvement Program (TIP) for the
Cincinnati Area Metropolitan Planning Organization (MPO)
(MPO approval documented on April 11, 2013 resolution)**

The Kentucky Environmental and Public Protection Cabinet's Division for Air Quality, the Kentucky Transportation Cabinet's Division of Planning, the Kentucky Transportation Cabinet's Office of Transportation Delivery, and the Transit Authority of Northern Kentucky also had an opportunity to review and comment on the aforementioned document.

We found that these documents met the criteria outlined in the

- Transportation Conformity Rule
- Transportation Conformity Rule Revision for $PM_{2.5}$ and the
- Transportation Conformity Rule Revision for the 8-hour Ozone and $PM_{2.5}$ Standards

We find that the aforementioned document conforms to National Ambient Air Quality Standards (NAAQS) as described and therefore support the Ohio Division of the Federal Highway Administration in making a positive conformity finding on the referenced documents for the 8-hr Ozone standard and the $PM_{2.5}$ Annual standard.

BSD: slm



U.S. Department
of Transportation
**Federal Highway
Administration**

Ohio Division

July 1, 2013

200 North High Street, Rm 328
Columbus, Ohio 43215
614-280-6896
614-280-6876

In Reply Refer To:
HDA-OH

Jerry Wray
Director
Ohio Department of Transportation
1980 West Broad Street
Columbus, OH 43223

Dear Director Wray:


We have completed our review of the conformity documentation for the Ohio-Kentucky-Indiana Regional Council of Governments (OKI) 2014-2017 Transportation Improvement Program (TIP). The conformity documentation includes analyses to demonstrate conformity for the applicable standards for the Cincinnati, Ohio area.

Based on our review, and in consultation with the United States Environmental Protection Agency (EPA), we find that the OKI 2014-2017 TIP, conforms to the applicable state implementation plan in accordance with the provisions of the EPA's Transportation Conformity Rule (40 CFR Parts 51 and 93).

In accordance with the June 2004, Memorandum of Agreement (MOA) between the FHWA-Ohio Division and the FTA-Region V, the FTA has concurred with this conformity determination. In accordance with the June 2004 MOA, FHWA's single signature constitutes FHWA and FTA's joint air quality conformity determination for the OKI 2014-2017 TIP.

If you have any questions or comments, please contact Mr. Frank Burkett, Senior Planning Specialist, at (614) 280-6838 or frank.burkett@dot.gov.

Sincerely,


Laura S. Leffler
Division Administrator



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF.

Laurie S. Leffler
Division Administrator
Federal Highway Administration
200 North High Street, Room 328
Columbus, Ohio 43215

JUN 21 2013

Dear Ms. Leffler:

This letter provides the U.S. Environmental Protection Agency's comments on the Ohio FY 2014-2017 Statewide Transportation Improvement Program (STIP) and urban Transportation Improvement Programs (TIPs) for Ohio's seventeen Metropolitan Planning Organizations (MPOs), as submitted to EPA by email on May 16, 2013. The May 16, 2013, email requested that EPA provide our recommendation to FHWA on the conformity of the FY2014-2017 STIP and associated urban area TIPs to the Ohio State Implementation Plan (SIP).

Several metropolitan areas relied on a previous emissions analysis from their long range plan and/or TIP to demonstrate conformity to their 2014-2017 TIPs. The Akron, Canton, Cincinnati, Cleveland, Dayton, Lima, Parkersburg-Marietta, Springfield, Toledo, Steubenville-Weirton, and Wheeling areas used this method, which is acceptable under the transportation conformity regulations at 40 CFR 93.122.

The Columbus and Newark urban areas utilized a budget test to demonstrate conformity of their TIPs to the approved 8-hour ozone budgets in the Ohio SIP for the areas. For PM_{2.5}, the Columbus and Newark areas utilized a no-greater-than-baseline test to demonstrate conformity of their TIPs to the Ohio SIP. These approaches were approved in the interagency consultation process participated in by these areas' MPOs and state and federal partners.

The Huntington-Ashland area does not need to demonstrate regional conformity to the Ohio SIP as the area's motor vehicle emissions have been determined by EPA to be insignificant for transportation conformity purposes.

The EPA has considered this conformity determination in light of the current status of the Clean Air Interstate Rule (CAIR). EPA notes that the District of Columbia Circuit Court (Court) issued a decision on July 11, 2008, vacating CAIR, North Carolina v. EPA, 531 F.3d 896 (D.C. Cir. 2008). On September 24, 2008, the EPA and other parties in the case filed motions for rehearing asking the D.C. Circuit to reconsider its decision in the case. On December 23, 2008, the Court granted EPA's motion for rehearing to the extent it agreed to remand CAIR without vacating it. However, the Court made no other changes to the July 11, 2008, opinion, remanding the case to

the EPA for further rulemaking consistent with this opinion. Therefore, the CAIR rule remained in place, but EPA must promulgate another rule consistent with the Court's July 11, 2008, opinion. On August 8, 2011, (76 FR 48208), EPA finalized the Cross State Air Pollution Rule (CSAPR) as replacement for the remanded CAIR rule. CSAPR became effective on October 7, 2011.

On December 30, 2011, the Court stayed the implementation of CSAPR, pending its review of the rule. The Court also ruled that EPA was expected to continue administering CAIR pending the Court's resolution of the petitions for review of CSAPR. On August 21, 2012, the Court issued its decision on CSAPR. The Court vacated the rule and the associated federal implementation plans. The Court further ruled that EPA must continue to administer CAIR pending the promulgation of a valid replacement. Therefore, CAIR remains in place. (EME Homer City Generation v. EPA, No. 11-1302 (D.C. Cir)).

Transportation conformity determinations should continue to use motor vehicle emissions budgets in approved SIPs. See Environmental Defense v. EPA, 167 F.3d 641, 651 (finding that the Clean Air Act requires conformity determinations to be based on an approved SIP, where such a SIP exists).

The conformity documentation prepared by Ohio and the MPOs for the Ohio urban areas demonstrates conformity, where applicable, to the 8-hour ozone standard, and the 2006 24-hour and 1997 annual fine particulate matter (PM_{2.5}) standards. We recommend that you find that the Ohio 2014-2017 STIP and associated urban area TIPs demonstrate conformity to the 8-hour ozone and PM_{2.5} standards, as required by the conformity rule.

If you have any questions regarding these comments, please contact Anthony Maietta, of my staff, at (312) 353-8777.

Sincerely,

A handwritten signature in black ink, appearing to read 'P. Blakley', is written over a horizontal line.

Pamela Blakley
Chief
Control Strategies Section



U.S. Department
of Transportation
**Federal Highway
Administration**

Ohio Division

July 1, 2013

200 North High Street, Room 328
Columbus, Ohio 43215
614-280-6896
614-280-6876

In Reply Refer To:
HDA-OH

Director Jerry Wray
Ohio Department of Transportation
1980 West Broad Street
Columbus, OH 43223

Dear Director Wray:

This letter is the documented Planning Finding for Ohio's State Fiscal Year 2014-2017 Statewide Transportation Improvement Program (STIP) and the incorporated Transportation Improvement Programs (TIPs). This letter also provides approval of the STIP.

In order to approve the STIP document, including the Metropolitan Area TIPs contained by reference or directly in the STIP the Federal Highway Administration and Federal Transit Administration must make a determination that each metropolitan TIP is based on a continuing, cooperative, and comprehensive (3-C) planning process. In addition, this Planning Finding is based upon the extent that all the projects in the STIP are the result of a planning process in accordance with 23 U.S.C 134 & 135 and 49 U.S.C. 5303-5305.

The following strengths of the statewide and metropolitan transportation planning processes have been identified:

- The Ohio Department of Transportation (ODOT) has continued to improve the delivery of an electronic STIP and supporting documentation that is accessible to the public.
- The state and MPOs have made advances in providing documentation in a timely manner.
- The state and MPOs have made advances in providing documentation of comprehensive fiscal constraint.

The following areas of the statewide and metropolitan transportation planning processes have been identified for improvement:

- The ODOT methodology for evaluating environmental justice issues in the STIP do not account sufficiently for the impact of transit on a statewide level.
- STIP development would benefit from increased coordination of STIP issues between ODOT Office of Transit and the Federal Transit Administration.

No areas of the statewide and metropolitan transportation planning processes have been identified as failing to comply with federal law or regulation.

Based on our review of the information provided in the State's 2014-2017 STIP submittals, including the fiscal constraint information and documentation to support the statewide planning certification, we approve Ohio's 2014-2017 STIP.

If you have any questions or comments, please contact Frank Burkett, Senior Planning Specialist,
at (614) 280-6838.

Sincerely,



Laura S. Leffler
Division Administrator