or grants to idle reduction projects. More information on the DOT's innovative finance program is available at http://www.fhwa.dot.gov/innovativefinance/.

IV. PRIORITY FOR USE OF CMAQ FUNDS

The SAFETEA-LU directs States and MPOs to give priority to two categories of funding. First, priority is for diesel retrofits, particularly where necessary to facilitate contract compliance, and other cost-effective emission reduction activities, taking into consideration air quality and health effects. Second, priority is to be given to cost-effective congestion mitigation activities that provide air quality benefits.[12] Other projects also may be cost-effective. The priority provisions in the statute apply to the portion of CMAQ funds derived from the application of sections 104(b)(2)(B) and 104(b)(2)(C) of SAFETEA-LU, i.e., the CMAQ apportionment formula. They do not apply to areas where CMAQ funding has been derived from the minimum apportionment provisions.

In accordance with the SAFETEA-LU,[13] the EPA has released a guidance document, *The Cost Effectiveness of Heavy-Duty Diesel Retrofits and Other Mobile Source Emission Reduction Projects and Programs,* which provides cost-effectiveness data on diesel engine retrofit technologies and other CMAQ-eligible activities. It is available online at: http://www.epa.gov/cleandiesel/publications.htm

In addition, the Transportation Research Board published *The Congestion Mitigation and Air Quality Improvement Program: Assessing 10 Years of Experience* in 2002, providing a number of effectiveness measures for both emissions and travel activity.

Though SAFETEA-LU establishes these CMAQ investment priorities, it also retains State and local agencies' authority in project selection. The law maintains the existing roles and authorities of public agencies, and substantial shifts in local procedures are not required by the SAFETEA-LU.[14] However, project selection should reflect the positive cost-effectiveness relationships highlighted in the EPA guidance. State and local transportation programs that implement a broad array of these cost-effective measures may record a more rapid rate of progress toward their clean air goals, since many of these endeavors generate immediate benefits. Local procedures that elevate the importance of these efforts in project selection—and rate them accordingly—may accelerate the drive to air quality attainment.[15]

In addition to the SAFETEA-LU priority on cost-effectiveness, Section 176(c) of the Clean Air Act[16] requires that the FHWA and FTA ensure timely implementation of transportation control measures (TCMs) in applicable State Implementation Plans (SIPs). These and other CMAQ-eligible projects identified in approved SIPs should receive funding priority.

The FHWA recommends that States and MPOs develop their transportation/air quality programs using complementary measures that provide alternatives to single-occupant vehicle (SOV) travel

[12] 23 U.S.C. §149(f)(3) (SAFETEA-LU §1808(d))
[13] 23 U.S.C. §149(f)(2)(c) (SAFETEA-LU §1808(d))
[14] 23 U.S.C. §149(f)(3)(B) (SAFETEA-LU §1808(d))
[15] U.S. House, *Safe, Accountable, Flexible, Efficient Transportation Equity Act, a Legacy for Users, Conference Report* (to accompany H.R. 3) (109 H. Rpt. 203), Section 1938, *Priorities Provision in Diesel Retrofit*
[16] 42 U.S.C. §7506 Section 176(c)(2)(B)

while improving traffic flow through operational strategies and balancing supply and demand through pricing, parking management, regulatory, or other means.

V. ANNUAL APPORTIONMENTS OF CMAQ FUNDS TO STATES

A. CMAQ Apportionments

Federal CMAQ funds are apportioned annually to each State according to the severity of its ozone and CO problem (see Appendix 2). The population of each county (based upon Census Bureau data) that is in a nonattainment or maintenance area for ozone and/or CO is weighted by multiplying by the appropriate factor listed in Table 2. PM nonattainment and maintenance areas and former 1-hour areas, except those few 1-hour maintenance areas participating in Early Action Compacts, are not included in the apportionments.

Note: CMAQ apportionments and CMAQ eligibility are two different things. Some areas in which CMAQ funds may be spent are not included in the apportionments (see Section VI.).

TABLE 2

SAFETEA-LU CMAQ APPORTIONMENT FACTORS[17]

POLLUTANT	CLASSIFICATION AT THE TIME OF ANNUAL APPORTIONMENT	WEIGHTING FACTOR
Ozone (O_3) or (CO)	Maintenance (these areas had to be previously eligible as nonattainment areas - See Section VI.)	1.0
Ozone	Subpart 1 (“Basic”)	1.0
Ozone	Marginal	1.0
Ozone	Moderate	1.1
Ozone	Serious	1.2
Ozone	Severe	1.3
Ozone	Extreme	1.4
CO	Nonattainment	1.0
Ozone and CO	Ozone nonattainment or maintenance and CO nonattainment or maintenance	1.2 x O_3 factor
All States – minimum apportionment	1/2 of 1 percent total annual apportionment of CMAQ funds	N/A

CMAQ apportionments are calculated based on the nonattainment and maintenance areas that exist at the time of apportionment. Generally, apportionments are calculated prior to the beginning of each fiscal year.

B. Area Designations: Attainment vs. Nonattainment

Each State is guaranteed a minimum apportionment of one-half percent of the year's total program funding, regardless of whether the State has any nonattainment or maintenance areas.

[17] 23 U.S.C. §104(b)(2) (SAFETEA-LU §1103(d))