

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE DIRECTOR
P.O. BOX 942873, MS-49
SACRAMENTO, CA 94273-0001
PHONE (916) 654-5266
FAX (916) 654-6608
TTY 711
www.dot.ca.gov



*Serious drought.
Help save water!*

October 2, 2014

U.S. Department of Transportation
Dockets Management Facility
1200 New Jersey Avenue SE
Washington, DC 20590

RE: Docket No. FHWA-2013-0018
Federal Register Document Number: 2014-17786
Congestion Mitigation and Air Quality Improvement Program

To Whom It May Concern:

The California Department of Transportation respectfully submits the attached comments on the Congestion Mitigation and Air Quality Improvement (CMAQ) Program Notice of Proposed Rulemaking issued by the Federal Highway Administration on August 4, 2014.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Malcolm Dougherty".

MALCOLM DOUGHERTY
Director, California Department of Transportation

Enclosure

**California Department of Transportation's Comments on the Federal
Highway Administration's Notice of Proposed Rulemaking on Congestion
Mitigation and Air Quality Improvement Program
October 2, 2014**

1. The California Department of Transportation (Caltrans) tentatively supports a weighting factor of 5 or less for PM_{2.5} nonattainment areas, although California does not currently have any maintenance PM_{2.5} areas in the state. Given the serious health problems associated with PM_{2.5} emissions, Caltrans agrees that it is reasonable to use a weighting factor for PM_{2.5} that is higher than the weighting factor for carbon monoxide and ozone. Additionally, by establishing a weighting factor for PM_{2.5}, the Federal Highway Administration is clarifying language in the Moving Ahead for Progress in the 21st Century Act (MAP-21) that refers to a weighted population for PM_{2.5} that was not addressed in statute.
2. Caltrans recommends that the Federal Highway Administration review historical data of Congestion, Mitigation, and Air Quality Improvement (CMAQ) projects to determine if states are already obligating more than 25 percent of their CMAQ apportionments on PM_{2.5} reducing projects. This will help determine if a PM_{2.5} set-aside is truly necessary. Similarly, since nitric oxide and nitrogen dioxide are a significant precursor of secondary-formation PM_{2.5}, projects that target reduction of nitric oxide and nitrogen dioxide will also result in an incremental reduction of PM_{2.5} emissions, even where PM_{2.5} is not the targeted pollutant. Therefore, it is our understanding that most CMAQ-eligible projects already reduce PM_{2.5} emissions.
3. Caltrans supports flexibility in selecting and programming a variety of PM_{2.5} reducing projects and suggests the proposed rulemaking explicitly state that any project demonstrating a reduction in PM_{2.5} emissions will count towards the CMAQ PM_{2.5} set-aside obligation requirement.
4. The Interim CMAQ Guidance states, “**except** for the PM_{2.5} set-aside, a State is under no statutory obligation to allocate CMAQ funds in the same manner they have been

apportioned at the Federal level.¹” The proposed rulemaking states that “a State’s total apportionment under the CMAQ program will not change; only the amount that the State would be required to set-aside for projects that reduce PM2.5 would change.” States should continue to have the discretion in sub-allocating all CMAQ funds in a manner that best addresses their unique air quality challenges and the Federal Highway Administration should revise the Interim CMAQ Guidance to be consistent with the proposed rulemaking.

5. The proposed rulemaking requires States “to spend that set-aside only on PM2.5 projects, as chosen by the States, in nonattainment or maintenance areas for PM2.5.” A nonattainment area is defined as “any geographic region of the United States that the Environmental Protection Agency has designated as nonattainment under section 107 of the Clean Air Act for any pollutant for which a national ambient air quality standard exists.” Does this definition require States to track obligations by the portion of the county that is nonattainment or maintenance for PM2.5, the entire county, the Metropolitan Planning Organization (MPO) boundary, or the State as a whole? County lines, MPO boundaries, and air basin areas do not follow the same boundary lines. Caltrans requests clarification on the 25 percent requirement for investments in projects that reduce PM2.5. Do CMAQ obligations need to be applied in specific nonattainment or maintenance areas for PM2.5 or can they be applied within an MPO/RTPA boundary or state as a whole? If specific PM2.5 area obligation is required, then this will prove to be a daunting task for states and will be an additional administrative cost not currently budgeted or funded. Therefore, Caltrans suggests language in the proposed rulemaking that requires States to obligate the PM2.5 set-aside dollars on a statewide level in order to minimize administrative costs associated with detailed specific area tracking. Additionally, Caltrans suggests the proposed rulemaking language include “as chosen by the State or MPO,” since project selection in California is primarily performed at the regional level.
6. Prior to MAP-21, the Federal Highway Administration published weighted population data at this link: http://www.fhwa.dot.gov/environment/air_quality/cmaq/populations/. To help States better understand the mathematical computation described in the proposed rulemaking, Caltrans requests that the Federal Highway Administration restart publishing weighted population data on their internet website.

¹ Interim CMAQ Guidance, page 9