



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

Memorandum

Subject: **INFORMATION:** Congestion Mitigation
and Air Quality – Increased Federal Share
Supplement

Date: June 29, 2009

From: *Margo D. Sheridan*
Margo D. Sheridan
Deputy Chief Financial Officer

In Reply Refer To:
HCFM-10

To: Directors of Field Services
Division Administrators

This is to supplement my memorandum of April 10, 2008 relating to the Federal share for Congestion Mitigation and Air Quality Improvement (CMAQ) projects carried out in FY 2008 or 2009 to clarify the treatment and Federal share of funds transferred to the CMAQ program under the authority of 23 U.S.C. 126.

The Energy Independence and Security Act of 2007, Public Law 110-140, gave States the flexibility to increase the Federal share payable for CMAQ projects up to 100 percent of the total project costs at the discretion of the State in FY 2008 and FY 2009. In accordance with the uniform transferability provision in 23 U.S.C. 126, States may transfer up to 50 percent of its apportioned funds from one program to another. If funds are transferred to the CMAQ program under 23 U.S.C. 126 and obligated in maintenance or nonattainment areas of the State, in FY 2008 or 2009, the Federal share may be up to 100 percent for CMAQ-eligible air quality projects, in accordance with 23 U.S.C. 120(c)(2).

Where a State receives the minimum apportionment for the CMAQ program, the funds may be used at 100 percent Federal share for a project eligible under the Surface Transportation Program (STP) only if those funds were apportioned to the State as part of its CMAQ apportionment. The State may not increase the Federal share of an STP-eligible project under section 120(c)(2) in a CMAQ minimum apportionment State in accordance with uniform transferability provisions. However a minimum apportionment State may transfer funds to its CMAQ apportionment and carry out a CMAQ eligible project under 23 U.S.C. 149(c)(1)(A) or (c)(2)(A) at up to 100 percent Federal share consistent with 23 U.S.C. 120(c)(2).

