

Congestion Mitigation And Air Quality Improvement Program (CMAQ)
Updated October 6, 2010

STATUS: ACTIVE

PROGRAM CODES:

- 3200 -- CMAQ
- 32A0 -- CMAQ 100% Safety
- 3AZ0 -- CMAQ-FTA
- 3610 - Congestion Relief Project
- 3BD0 - Congestion Relief Demo.-FTA
- Q400 -- CMAQ TEA-21
- QC10 -- CMAQ FTA
- Q420 -- CMAQ 100% Safety
- H400 -- CMAQ STEA03
- HV20 -- Highways for Life - CMAQ 10% Limit
- L400 -- SAFETEA-LU CMAQ
- LV20 - Highways for Life - CMAQ 10% Limit
- L40E – CMAQ SAFETEA-LU Ext.
- L40R – CMAQ SAFETEA-LU Restored (P.L. 111-147 Sec. 413)
- LV2E - Highways for Life – CMAQ 10% Limit – SAFETEA-LU Ext.

FEDERAL SHARE: 80 percent, 90 percent if used on the Interstate System, 100 percent if used for certain safety projects (e.g., carpool/vanpool projects, priority control systems for emergency vehicles and transit vehicles, and traffic control signalization) and up to 100 percent on CMAQ funds obligated in fiscal years 2008 and 2009.

PERIOD AVAILABLE: FY + 3 Years

FUND: Highway Trust Fund

FUND DISTRIBUTION METHOD: Apportionment

AUTHORITY: Contract

SUBJECT TO OBLIGATION LIMITATION: Yes

STATUTORY REFERENCE: 23 U.S.C. 149

CFR REFERENCE: None

ELIGIBILITY: Eligible projects/programs include:

- transportation activities in an approved State Implementation Plan,
- transportation control measures to assist areas designated as nonattainment under the Clean Air Act Amendments (CAAA) of 1990,
- pedestrian/bicycle facilities
- traffic management/monitoring/congestion relief strategies,
- transit (new system/service expansion or operations),
- alternative fuel projects (including vehicle refueling infrastructure, clean fuel fleet programs and conversions),
- vehicle inspection and maintenance (I/M) programs,
- intermodal freight ,
- telework/telecommuting programs
- travel demand management,
- development activities in support of eligible projects (e.g. NEPA studies),
- public education and outreach activities,
- rideshare programs,
- establishing/contracting with transportation management associations (TMAs),
- fare/fee subsidy programs (operating subsidies have a 3-year limit),
- HOV programs, including HOT lanes

- diesel retrofits,
- truck-stop electrification
- experimental pilot projects, and
- other transportation projects with air quality benefits.

Ineligible projects include:

- Construction of projects which add new capacity for single-occupancy vehicles.

BACKGROUND: The CMAQ program was established by the Intermodal Surface Transportation Act of 1991 (1991 ISTEA, Public Law 102-240) and was continued by the Transportation Equity Act for the 21st Century (TEA-21, Public Law 105-178) and the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) under 23 U.S.C. 149. On an annual basis, the SAFETEA-LU CMAQ program is 24 percent larger than TEA-21's program with funding authorized at \$8.6 billion over five years, FYs 2005-2009.

Under 23 U.S.C. 104(b)(2)(B), each State is apportioned funding based on county populations residing within ozone and carbon monoxide (CO) nonattainment and maintenance areas and the severity of the areas' air quality problems. Extra weighting is given to nonattainment or maintenance areas with both ozone and CO problems.

SAFETEA-LU highlights some of the existing eligible project types, most notably diesel retrofits. Also, the new bill makes projects in former one-hr ozone nonattainment and maintenance areas eligible for CMAQ support.

A metropolitan planning organization or State can enter into a public/private partnership agreement with any public, private, or nonprofit entity to cooperatively implement any project funded under the CMAQ program. If a State has no ozone or carbon monoxide nonattainment or maintenance areas, the funds may be used for Surface Transportation Program eligible or CMAQ eligible purposes. States also have the option to transfer up to 50 percent of their increase in CMAQ funds compared to what they would have received if the CMAQ program were funded at \$1.35 billion nationwide. The funds may be transferred to other Federal-aid programs, but can only be utilized for projects in nonattainment and maintenance areas.

The Energy Independence and Security Act of 2007 (EISA), Public Law 110-140 included a new provision in Section 1131. This provision increased the Federal share for the CMAQ program (23 U.S.C. Section 120(c)(2)). In enacting Section 120(c)(2), Congress established an 80 percent Federal share subject to new flexibility for a State to increase the Federal share payable on a CMAQ project up to 100 percent of the cost, if funds are obligated in fiscal year 2008 or 2009, and further subject to Section 120(i), which provides that a State may increase the non-Federal share for a project subject to criteria that the Secretary may establish. Consequently, there is no absolute minimum of 80 percent Federal share. As of December 20, 2007, funds that are obligated under the CMAQ program (23 U.S.C. 149), may be increased up to 100 percent of the total cost, at the discretion of the State, if funds are obligated in fiscal years 2008 and 2009. This provision to increase the Federal Share payable up to 100% has been extended by the enactment of the Surface Transportation Extension Act of 2010 (P.L. 111-147) through December 31, 2010.

Projects obligated prior to December 20, 2007, may not be modified to claim the increased Federal share. Modifications may be made to increase the Federal share on projects obligated on or after December 20, 2007, the effective date of the new legislation. The change in the Federal share is to be entered as a new detail line item in the Fiscal Management Information System.

The program has been extended through 2010 under the SAFETEA-LU Extension.

ADDITIONAL INFORMATION: Contact the Office of Natural and Human Environment (HEPN).

Surface Transportation Program (STP)
Updated October 6, 2010

STATUS: ACTIVE

PROGRAM CODES:

ISTEA

- 3AA0 -- STP-Other Than 200,000 Population
- 3AC0 -- STP-Areas Under 200,000 Population, 100 percent Federal Participation
- 3AD0 -- STP-1/4 percent Skill Training
- 3AE0 -- STP-TMFW Rail-Highway Crossings/Protective Devices
- 3AF0 -- STP-TMFW Rail-Highway Crossings/Hazard Elimination
- 3AG0 -- STP-TMFW-1/16 percent NHI Skill Training
- 3AH0 -- STP-TMFW Hazard Elimination Program
- 3AJ0 -- STP-TMFW 1/4 percent Skill Training
- 3AK0 -- STP-FTA Urbanized Areas >200,000 Population
- 3AL0 -- STP-FTA Optional Safety
- 3AM0 -- STP-FTA Transportation Enhancement
- 3AN0 -- STP-FTA State Flexible
- 3AP0 -- STP-FTA Mandatory Amount for Non-Urban Areas
- 3AR0 -- STP-FTA Rail-Highway Crossings, Protective Devices
- 3AT0 -- STP-FTA Rail-Highway Crossings, Elimination of Hazards
- 3AW0 -- STP-FTA Hazard Elimination Program
- 3AY0 -- STP-FTA Other Than 200,000 Population
- 33A0 -- STP-Optional Safety
- 33B0 -- STP-Transportation Enhancement
- 33C0 -- STP-Urbanized Areas With Populations >200,000
- 33D0 -- STP-State Flexible
- 33E0 -- STP-Mandatory Amount for Non-Urban Areas
- 33F0 -- STP-1/16 percent Skill Training (23 U.S.C. 321(b), NHI)
- 33M0 -- STP-Rail-Highway Crossings, Protective Devices
- 33N0 -- STP-Rail-Highway Crossings, Elimination of Hazards
- 33P0 -- STP-Hazard Elimination Program
- 33Q0 -- STP-Optional Safety, 100 percent
- 33R0 -- STP-Transportation Enhancement, 100 percent for Safety
- 33S0 -- STP-Urbanized Areas With Populations >200,000, 100 percent for Safety
- 33T0 -- STP-State Flexible, 100 percent for Safety
- 33W0 -- STP-Mandatory Amount for Non-Urban Areas, 100 percent for Safety
- 33X0 -- STP-Rail-Highway Crossings, Protective Devices, 100 percent for Safety
- 33Y0-- STP-Rail-Highway Crossings, Elimination of Hazards, 100 percent for Safety
- 33Z0 -- STP-Hazard Elimination Program, 100 percent for Safety

TEA-21

- Q200 - STP < 200K
- Q210 - STP SFTY
- Q220 - STP-ENH
- Q230 - STP-URB
- Q240 - STP-FLEX
- Q250 - STP < 5K
- Q260 - STP RH PR
- Q270 - STP-RH HZ
- Q280 - STP-HAZ EL
- Q290 - STP-NHI
- Q300 - STP 1/2
- Q310 - STP PILOT

- Q320 - STP < 200K-G
- Q330 - STP-SAFETY-G
- Q340 - STP ENHAN-G
- Q350 - STP URBAN-G
- Q360 - STP ANY AREA-G
- Q370 - STP NON-URB-G
- Q380 - STP R/H P/D-G
- Q390 - STP HAZ EL-G
- Q430 - STP HAZ ELIM-G
- QB10 - STP < 200,000-FTA
- QB20 - STP ASFETY-FTA
- QB30 - STP ENHAN-FTA
- QB40 - STP > 200K-FTA
- QB50 - STP ANY-FTA
- QB60 - STP NON-URB-FTA
- QB70 - STP PROT DV-FTA
- QB80 - STP ELM HAZ-FTA
- QB90 - STP HAZ ELM-FTA
- QT30 - STP-TAX EVA

SURF. TRANS. EXT. ACTS OF 2003, 2004 & 2005

- H200 - STP<200K
- H210 - STP SFTY
- H220 - STP-ENH
- H230 - STP URB
- H240 - STP-FLEX
- H250 - STP <5K
- H260 - STP RH PR
- H270 - STP-RH HZ
- H280 - STP-HAZ EL
- H290 - STP-NHI
- H300 - STP 1/2
- HT30 - STP-TAX EVA

SAFETEA-LU

- L200 - STP<200K
- L20E - STP<200K (SAFETEA-LU Extension – P.L. 111-068)
- L20R - STP<200K (SAFETEA-LU Restored - P.L. 111-147 Sec. 413)
- L21R – STP-Optional Safety (SAFETEA-LU Restored - P.L. 111-147 Sec. 413)
- L220 - STP ENH
- L22E - STP ENH (SAFETEA-LU Extension – P.L. 111-068)
- L22R - STP ENH (SAFETEA-LU Restored - P.L. 111-147 Sec. 413)
- L230 - STP>200K
- L23E - STP>200K (SAFETEA-LU Extension – P.L. 111-068)
- L23R - STP>200K (SAFETEA-LU Restored - P.L. 111-147 Sec. 413)
- L240 - STP FLEXIBLE
- L24E - STP FLEXIBLE (SAFETEA-LU Extension – P.L. 111-068)
- L24R - STP FLEXIBLE (SAFETEA-LU Restored - P.L. 111-147 Sec. 413)
- L250 - STP <5,000
- L25E - STP <5,000 (SAFETEA-LU Extension – P.L. 111-068)
- L25R - STP <5,000 (SAFETEA-LU Restored - P.L. 111-147 Sec. 413)
- L26R - STP-Rail-Highway, Protective Devices (SAFETEA-LU Restored - P.L. 111-147 Sec. 413)
- L27R - STP-Rail-Highway, Elimination of Hazards (SAFETEA-LU Restored - P.L. 111-147 Sec. 413)
- L28R - STP-Hazard Elimination Program (SAFETEA-LU Restored - P.L. 111-147 Sec. 413)
- L290 - STP NHI
- L29E - STP NHI (SAFETEA-LU Extension – P.L. 111-068)

- L300 - STP 1/2 SK TR
- L30E - STP 1/2 SK TR (SAFETEA-LU Extension – P.L. 111-068)
- L310 - STP Tax Evasion
- L31E - STP Tax Evasion (SAFETEA-LU Extension – P.L. 111-068)
- LT30 - STP Tax Evasion
- LT3E - STP Tax Evasion (SAFETEA-LU Extension – P.L. 111-068)

FEDERAL SHARE: 80 percent, including sliding scale under 23 U.S.C. 120. When STP funds are used for Interstate projects (including projects to add high occupancy vehicle or auxiliary lanes, but not any other lanes), the Federal share may be 90 percent, including sliding scale.

PERIOD AVAILABLE: FY + 3 Years

FUND: Highway Trust Fund

FUND DISTRIBUTION METHOD: Apportionment

AUTHORITY: Contract

SUBJECT TO OBLIGATION LIMITATION: Yes

STATUTORY REFERENCE: 23 U.S.C. 133, 23 U.S.C. 104(b)(3); SAFETEA-LU Sections 1101(a)(4), 1103(f), 1113, 1603, 1960, 6006

CFR REFERENCE: None

ELIGIBILITY: Funds apportioned to a State for the STP may be obligated for:

- Construction, reconstruction, rehabilitation, resurfacing, restoration, and operational improvements for highways (including Interstate highways) and bridges (including bridges on public roads of all functional classifications), including any such construction or reconstruction necessary to accommodate other transportation modes, and including the seismic retrofit and painting of and application of calcium magnesium acetate, sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and de-icing compositions on bridges and approaches thereto and other elevated structures, mitigation of damage to wildlife, habitat, and ecosystems caused by a transportation project funded under Title 23, United States Code;
- Capital costs for transit projects eligible for assistance under chapter 53 of Title 49, United States Code, including vehicles and facilities, whether publicly or privately owned that are used to provide intercity passenger service by bus;
- Carpool projects, fringe and corridor parking facilities and programs, bicycle transportation and pedestrian walkways in accordance with 23 U.S.C. 217, and the modification of public sidewalks to comply with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);
- Highway and transit safety infrastructure improvements and programs, hazard eliminations, projects to mitigate hazards caused by wildlife, and railway-highway grade crossings;
- Highway and transit research and development and technology transfer programs;
- Capital and operating costs for traffic monitoring, management, and control facilities and programs, including advanced truck stop electrification systems;
- Surface transportation planning programs;
- Transportation enhancement activities;
- Transportation control measures listed in Section 108(f)(1)(A) (other than clause xvi) of the Clean Air Act (42 U.S.C. 7408(f)(1)(A));
- Development and establishment of management systems under 23 U.S.C. 303;
- In accordance with all applicable Federal law (including regulations), participation in natural habitat and wetland mitigation efforts related to projects funded under this title, which may include participation in natural habitat and wetland mitigation banks, contributions to statewide and regional efforts to conserve, restore, enhance, and create natural habitats and wetland, and development of statewide and regional natural habitat and wetland conservation and mitigation plans, including any such banks, efforts, and plans authorized under the Water Resources Development Act of 1990 (Public Law 101-640) (including crediting provisions). Contributions to the mitigation efforts described in the preceding sentence may take place concurrent with or in advance of project construction; except that contributions in advance of project construction may occur only if the efforts are consistent with all applicable requirements of Federal law (including regulations) and State

transportation planning processes. With respect to participation in a natural habitat or wetland mitigation effort related to a project funded under this title that has an impact that occurs within the service area of a mitigation bank, preference shall be given, to the maximum extent practicable, to the use of the mitigation bank if the bank contains sufficient available credits to offset the impact and the bank is approved in accordance with the Federal Guidance for the Establishment, Use and Operation of Mitigation Banks (60 Fed. Reg. 58605 (November 28, 1995)) or other applicable Federal law (including regulations);

- Projects relating to intersections that--
 - A. have disproportionately high accident rates,
 - B. have high levels of congestion, as evidenced by--
 - i. interrupted traffic flow at the intersection; and
 - ii. a level of service rating that is not better than "F" during peak travel hours, calculated in accordance with the Highway Capacity Manual issued by the Transportation Research Board, and
 - C. are located on a Federal-aid highway;
- Infrastructure-based intelligent transportation systems capital improvements;
- Environmental restoration and pollution abatement in accordance with 23 U.S.C. 328; and
- Control of noxious weeds and aquatic noxious weeds and establishment of native species in accordance with 23 U.S.C. 329.

BACKGROUND: The STP was established by Section 1007 of the Intermodal Surface Transportation Efficiency Act of 1991 (1991 ISTEA, Public Law 102-240), which added Section 133 to Title 23, United States Code. The 1991 ISTEA authorized \$23.9 billion to be appropriated out of the Highway Trust Fund for the 6-years FYs 1992-1997. These funds were apportioned to the States based on a State's percentage share of apportionments for FYs 1987-1991.

The Transportation Equity Act for the 21st Century (TEA-21, Public Law 105-178), enacted on June 9, 1998, authorized \$33.3 billion from the Highway Trust Fund for FYs 1998 through 2003 for the STP. The authorized amounts were subject to deductions of \$500,000 each year for Operation Lifesaver, and \$5,250,000 each year for elimination of hazards at railway-highway crossings in high-speed rail corridors.

The TEA-21 also established a formula for apportionment of STP funds to the States as follows:

- 25 percent in the ratio that total lane miles of Federal-aid highways in a State bears to total lane miles of Federal-aid highways in all States;
- 40 percent in the ratio that total vehicle miles of travel on lanes on Federal-aid highways in a State bears to the total vehicle miles of travel on lanes on such highways in all States; and
- 35 percent in the ratio the estimated tax payments attributable to highway users in each State paid into the Highway Trust Fund (other than the Mass Transit Account) in the latest fiscal year bears to the total of such payments in all the States.
- Each State was to receive a minimum of 1/2 percent of the funds apportioned.
- In addition, a portion of a State's Minimum Guarantee program funds was added to its STP apportionment.

Each State's apportioned STP funds were suballocated in the following manner:

- Ten percent of each State's apportionment was set-a-side for safety construction activities (i.e., hazard elimination and rail-highway crossings);
- Ten percent was set-a-side for transportation enhancement activities;
- Fifty percent (62.5 percent of the remaining 80 percent) of the funds were divided between urbanized areas over 200,000 in population and the remaining areas of the State. (The portion that goes to urbanized areas over 200,000 population must be distributed on the basis of population unless the State and relevant MPOs request the use of other factors and the FHWA approves. This provision is not applicable to Alaska and Hawaii.);
- The remaining 30 percent (37.5 percent of the remaining 80 percent) could be used in any area of the State. (This provision is not applicable to Alaska and Hawaii.);
- Areas of less than 5,000 population were guaranteed an amount that was not less than 110 percent of a State's FY 1991 pre-ISTEA secondary road program apportionment. For FYs 1998-2003, up to 15 percent of the funds for areas less than 5,000 population could be used on roads functionally classified as rural minor collectors;

- For the period FYs 1992-1997, a State with STP funds suballocated to urbanized areas over 200,000 population had to make obligation authority available over this 6-year period to each of these areas at the same percent that obligation authority was made available to the State over this period. The TEA-21 changed this provision to require that such obligation authority be made available over each of two 3-year periods, FYs 1998-2000 and FYs 2001-2003; and
- If a State or local government had failed to comply substantially with any provision of 23 U.S.C. 133 and the State failed to take corrective action within 60 days from the date of receipt of notification of noncompliance, future STP apportionments were to be withheld until appropriate corrective action had been taken.

The Surface Transportation Extension Acts of 2003, 2004 (Parts I through V), and 2005 (Parts I through VI) authorized continued funding for the STP program at FY 2003 levels until the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU, Public Law 109-59) was enacted on August 10, 2005.

Section 1101(a)(4) of SAFETEA-LU authorized \$32.5 billion for the STP for FYs 2005 through 2009.

For FY 2005, \$560,000 of this STP authorization is set aside for the Operation Lifesaver Program. For FYs 2006 through 2009, Operation Lifesaver is funded with its own authorization.

For FY 2005, \$5.25 million of this STP authorization is set aside for Rail-Highway Crossing Hazard Elimination in High Speed Rail Corridors. For FYs 2006 through 2009, this program is funded with its own authorization.

In addition, under 23 U.S.C. 140(b) and 23 U.S.C. 140(c), up to \$10 million each is set aside for administration of OJT Supportive Services and DBE Training, respectively.

The remaining STP authorization under SAFETEA-LU continues to be apportioned to the States in accordance with the above formula established in TEA-21. Each State must still receive a minimum of ½ percent of the total STP funds apportioned. In addition, each State's STP apportionment is augmented by a portion of the Equity Bonus Program (previously Minimum Guarantee Program under TEA-21) under 23 U.S.C. 105.

The set-asides and sub-allocations of a State's STP apportionment under SAFETEA-LU continue as under TEA-21 with the following modifications:

- For FY 2005, the 10 percent set-aside of a State's STP apportionment under 23 U.S.C. 133(d)(1) for safety programs continues. However, for FYs 2006 through 2009, safety programs are funded under the new Highway Safety Improvement Program established in 23 U.S.C. 148 by section 1401 of SAFETEA-LU, and 23 U.S.C. 133(d)(1) is repealed effective October 1, 2005 by section 1113(b) of SAFETEA-LU.
- For FY 2005, the 10 percent set-aside of a State's STP apportionment under 23 U.S.C. 133(d)(2) for transportation enhancements continues. However, under the provisions of 23 U.S.C. 133(d)(2), as amended by section 1113(c) of SAFETEA-LU, for FYs 2006 through 2009, this set-aside is modified to be the greater of 10 percent of a State's STP apportionment or the amount set aside for transportation enhancements for the State in FY 2005.
- The 62.5 percent of a State's remaining STP apportionment (after the transportation enhancements set-aside) is divided among sub-State areas on the basis of population under the provisions of 23 U.S.C. 133(d), as amended by section 1113(b) of SAFETEA-LU.

The following modifications to STP eligible activities are included in SAFETEA-LU:

- Under section 1113(a)(1) of SAFETEA-LU, advanced truck stop electrification systems is added to 23 U.S.C. 133(b)(6).
- Under section 1113(a)(2) of SAFETEA-LU, 23 U.S.C. 133(b)(12) is added, which provides eligibility for projects at intersections that have high accident rates, high levels of congestion, and are on a Federal-aid highway.
- Under section 6006 of SAFETEA-LU, environmental restoration and pollution abatement, as described in 23 U.S.C. 328, is added under 23 U.S.C. 133(b)(14).
- Under section 6006 of SAFETEA-LU, control of noxious weeds and aquatic noxious weeds and establishment of native species, as described in 23 U.S.C. 329, is added under 23 U.S.C. 133(b)(15).

- The provision in section 1108(f) of TEA-21, which allowed obligation of up to 15 percent of a State's STP sub-allocation for areas with less than 5,000 population on rural minor collectors, was not continued under SAFETEA-LU.
- Section 113(a) of the SAFETEA-LU Technical Corrections Act of 2008 (Public Law 110-244), which was enacted on June 6, 2008, amended Section 1108(f) of TEA-21 by extending this provision through FY 2009. This special rule permits obligation on minor collectors of up to 15 percent of a State's sub-allocation of STP funds for areas of less than 5,000 population.

The program has been extended through 2010 under the SAFETEA-LU Extension.

ADDITIONAL INFORMATION: Contact the Office of Planning (HEPP) or the Office of Program Administration (HIPA).