



METROPOLITAN  
TRANSPORTATION  
COMMISSION

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*Memorandum*

TO: Partnership Technical Advisory Committee

DATE: March 17, 2008

FR: Ross McKeown

RE: CMAQ - 80 Percent Minimum Federal Share

As many of you are aware, the HR6 Energy Independence and Security Act of 2007 included a provision regarding a required minimum federal CMAQ share of 80 percent for CMAQ-funded projects.

The provision reads as follows:

SEC. 1131. INCREASED FEDERAL SHARE FOR CMAQ PROJECTS. “(2) CMAQ PROJECTS - The Federal share payable on account of a project or program carried out under section 149 with funds obligated in fiscal year 2008 or 2009, or both, shall be not less than 80 percent and, at the discretion of the State, may be up to 100 percent of the cost thereof.”

Obviously, this will be a problem for many of the region’s CMAQ projects since most do not include programming at the 80% CMAQ level. Because the original rules required a minimum local match of 11.5% rather than a maximum of 20% non-CMAQ funding, many projects are overmatched and do not comply with the new 80% CMAQ provision.

Attached are the HR6 language, Energy Act Provisions; US DOT memorandum regarding increased federal share; CMAQ Federal Share Questions & Answers, and a list of CMAQ projects in the region that could be impacted by this federal provision.

MTC staff will discuss the latest status of the CMAQ minimum share issue, and what it could mean to the region.

Attachments: US DOT memorandum regarding increased federal share  
HR6 language, Energy Act Provisions  
CMAQ Federal Share Questions & Answers  
Potentially impacted CMAQ projects in the region



U.S. Department  
of Transportation

**Federal Highway  
Administration**

# Memorandum

Subject: **ACTION:** Congestion Mitigation and Air  
Quality - Increased Federal Share

Date: February 13, 2008

From: A. Thomas Park  
Chief Financial Officer

In Reply Refer To:  
HCFM-10

To: Directors of Field Services  
Division Administrators

The basic Federal share payable for Federal-aid projects is established in section 120 of title 23, United States Code (U.S.C.). Section 1131 of the Energy Independence and Security Act of 2007, Public Law 110-140, revised the Federal share in 23 USC 120(c), for the Congestion Mitigation and Air Quality (CMAQ) program. Prior to the date of enactment, the Federal share for the CMAQ program was 80 percent, 90 percent if used on the Interstate System, and 100 percent if used for certain safety projects. As of December 20, 2007, projects carried out under the Congestion Mitigation and Air Quality Improvement Program (23 U.S.C. 149) for which funds are obligated during fiscal year 2008 and/or 2009, shall be not less than 80 percent and may be increased up to 100 percent of the total cost, at the discretion of the State.

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.

Please don't hesitate to contact Dale Gray at (202) 366-0978 if you have any additional questions.

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## H.R.6

**Energy Independence and Security Act of 2007 (Enrolled as Agreed to or Passed by Both House and Senate)**

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### **SEC. 1131. INCREASED FEDERAL SHARE FOR CMAQ PROJECTS.**

Section 120(c) of title 23, United States Code, is amended--

- (1) in the subsection heading by striking `for Certain Safety Projects';
- (2) by striking `The Federal share' and inserting the following:  
` (1) CERTAIN SAFETY PROJECTS- The Federal share'; and
- (3) by adding at the end the following:  
` (2) CMAQ PROJECTS- The Federal share payable on account of a project or program carried out under section 149 with funds obligated in fiscal year 2008 or 2009, or both, shall be not less than 80 percent and, at the discretion of the State, may be up to 100 percent of the cost thereof.'.

### **SEC. 1132. DISTRIBUTION OF RESCISSIONS.**

(a) In General- Any unobligated balances of amounts that are appropriated from the Highway Trust Fund for a fiscal year, and apportioned under chapter 1 of title 23, United States Code, before, on, or after the date of enactment of this Act and that are rescinded in fiscal year 2008 or fiscal year 2009 shall be distributed by the Secretary of Transportation within each State (as defined in section 101 of such title) among all programs for which funds are apportioned under such chapter for such fiscal year, to the extent sufficient funds remain available for obligation, in the ratio that the amount of funds apportioned for each program under such chapter for such fiscal year, bears to the amount of funds apportioned for all such programs under such chapter for such fiscal year.

Energy Act Provisions: CMAQ Federal Share  
*Questions & Answers*

1. *Do the provisions requiring an 80-100 percent CMAQ share in FY 2008 and 2009 also apply to attainment States?* Yes. The provision applies to all CMAQ obligations for these two Federal fiscal years.
2. *Can States combine funds from other Federal-aid programs, such as STP or NHS, with CMAQ to reach the minimum 80 percent share?* No. The statute clearly states that the minimum applies to CMAQ funding. Any share of CMAQ applied to a Federal-aid project that does not reach the 80 percent true floor—regardless of combinations with other funds—would not meet the test of the law.
3. *Can CMAQ funds be transferred to STP to support eligible projects under the STP program and, thereby, retain the Federal share flexibility of 23 U.S.C. 120(i)?* Yes. The uniform transferability statute (23 U.S.C 126) permits transfers, subject to specific limitations in 23 U.S.C. 126(c) relating to CMAQ, to be made from one apportionment to another. Providing the project is eligible under STP, such a transfer is allowed and the flexibility in Federal share afforded by Sect 120(i) is available.
4. *Does the increased Federal share provision apply to funds apportioned in years prior to FY 2008?* Yes. The provisions apply to all funds obligated in FY 08 and FY 09, regardless of the year of apportionment.
5. *Do States need to apply a uniform share statewide?* No. The provisions can be applied differently for each project under obligation, provided the minimum 80 percent CMAQ share is met.
6. *For States that make use of Advance Construction (AC), do the share provisions apply to AC?* An AC authorization is not an obligation of funds. When adequate obligation authority is available and the State seeks reimbursement for AC projects, any obligation occurring in FY 2008 or FY 2009 to be applied to CMAQ funds will need to reflect the amended CMAQ share provisions.
7. *Are public-private partnerships that made extensive use of higher non-Federal match exempt from these new provisions?* No. Typical PPP under CMAQ traditionally have employed match ratios approaching a 50-50 split. These breakdowns would not be allowed for FY 2008 and 2009 under the CMAQ program.
8. *Will these CMAQ share provisions continue after 2009?* The provisions are specific to 2008 and 2009. We are unable to predict whether these provisions will be incorporated into the next reauthorization or any extension acts.

**METROPOLITAN TRANSPORTATION COMMISSION**  
**FY 2007-08 & FY 2008-09**  
**CMAQ Funding - Impacted by Minimum Share Requirement**  
**March 1, 2008**

(Sorted by FY 2007-08-09 CMAQ Cost)

County	Sponsor	TIP ID	Project Name	CMAQ FY 2007-08	CMAQ FY 2008-09	TOTAL FY 07-08 & FY 08-09 CMAQ	TOTAL SAFETEA CMAQ	Total Project Cost	% CMAQ to Total Proj Cost
MRN	Caltrans	MRN990001	Marin US 101 HOV Gap Closure	13,380,000		13,380,000	48,160,000	169,702,774	28.38%
REG	MTC-SAFE	REG050021	Incident Management Program	2,833,000	5,400,000	8,233,000	10,233,000	31,033,000	32.97%
ALA	BART	ALA050065	Ed Roberts Campus	7,044,000		7,044,000	7,044,000	36,675,503	19.21%
ALA	Caltrans	ALA070042	I-880 SB HOV Lanes - Marina Blvd to Hegenberger	4,024,000	2,757,000	6,781,000	6,781,000	108,164,000	6.27%
ALA	ACCMA	ALA070020	I-580 (TriValley) Corridor - EB HOV Lane		6,000,000	6,000,000	6,000,000	160,817,000	3.73%
REG	MTC	REG050017	511 Traveler Information	3,700,000	1,700,000	5,400,000	8,700,000	50,224,000	17.32%
SF	MUNI	SF-010037	SF Muni Third St LRT Phase 2 - New Central Subway		4,000,000	4,000,000	4,000,000	966,380,874	0.41%
SF	Caltrain	SF-010028	Caltrain Electrification	4,000,000		4,000,000	4,000,000	601,400,000	0.67%
CC	CC County	CC-990046	Iron Horse Trail Over-crossing at Treat		3,276,000	3,276,000	3,276,000	8,213,000	39.89%
ALA	Caltrans	ALA070041	I-80 Integrated Corridor Mobility Project	3,243,000		3,243,000	3,243,000	88,636,000	3.66%
ALA	Alameda County	ALA070040	Hampton Rd Streetscape Improvements		2,999,000	2,999,000	2,999,000	5,550,000	54.04%
ALA	Oakland	ALA050080	7th Street, W. Oakland Transit Village Improvements	320,000	2,330,000	2,650,000	2,650,000	4,294,000	61.71%
ALA	Oakland	ALA070057	Fruitvale Ave Streetscape & Ped. Improvements		2,620,000	2,620,000	2,620,000	3,816,000	68.66%
SF	SF DPW	SF-070031	Valencia Streetscape Improvements Project		2,600,000	2,600,000	2,600,000	4,660,000	55.79%
SM	SSF	SM-050026	San Bruno - S. San Francisco BART Linear Park	2,402,000		2,402,000	4,335,000	6,531,000	66.38%
CC	El Cerrito	CC-070074	San Pablo Avenue Streetscape		2,306,000	2,306,000	2,306,000	4,506,000	51.18%
REG	MTC	REG050015	Signal Timing Program - Part 2	2,250,000		2,250,000	5,150,000	6,543,000	78.71%
SF	SF DPW	SF-070032	Leland Avenue Streetscape Improvements Project	410,000	1,640,000	2,050,000	2,050,000	4,078,000	50.27%
REG	BAAQMD	MTC990015	Spare the Air Program	1,000,000	1,000,000	2,000,000	6,753,000	14,981,038	45.08%
ALA	Union City	ALA990015	Union City Intermodal Station	1,702,000		1,702,000	4,726,000	57,185,442	8.26%
SCL	Sunnyvale	SCL070036	Sunnyvale-Murphy Ave Streetscape Revitalization		1,697,000	1,697,000	1,697,000	4,768,000	35.59%
CC	Martinez	CC-070085	Martinez - Marina Vista Streetscape		1,600,000	1,600,000	1,600,000	3,259,000	49.09%
ALA	Fremont	ALA070037	Bay Street Streetscape & Parking Project		1,570,000	1,570,000	1,570,000	3,550,000	44.23%
SCL	San Jose	SCL050061	San Jose State Univ. / Japantown Pedestrian Imps.		1,555,000	1,555,000	1,555,000	1,946,000	79.91%
ALA	Dublin	ALA050082	E. Dublin BART Station Corridor Bike/Ped Enh.		1,535,000	1,535,000	1,819,000	2,431,000	74.83%
CC	St. Rte. 4 BA	CC-070067	Mokelumne Trail Bike/Ped Overcrossing		1,520,000	1,520,000	1,520,000	3,820,000	39.79%
SCL	Morgan Hill	SCL070014	Third Street Promenade		1,520,000	1,520,000	1,700,000	2,188,000	77.70%
MRN	Marin County	MRN030003	Cal-Park Hill Tunnel Improvements	1,500,000		1,500,000	1,500,000	19,901,000	7.54%
SCL	Saratoga	SCL070026	DeAnza Trail	1,400,000		1,400,000	1,400,000	1,971,000	71.03%
REG	MTC	MTC990013	Regional Transportation Marketing	700,000	700,000	1,400,000	3,700,000	6,663,000	55.53%
ALA	MTC	ALA070034	Ashby BART Station/Ed Roberts Campus		1,386,000	1,386,000	1,386,000	2,606,000	53.18%
CC	Concord	CC-070083	Monument Blvd & Meadow Ln Pedestrian Imps.		1,200,000	1,200,000	1,200,000	2,940,000	40.82%
CC	Richmond	CC-070080	Richmond Downtown Bike & Ped Improvements		1,100,000	1,100,000	1,100,000	2,805,000	39.22%
SM	Pacifica	SM-070027	San Pedro Terrace Multi-Purpose Trail		1,000,000	1,000,000	1,000,000	1,532,000	65.27%
ALA	Oakland	ALA070039	Oakland Waterfront Bay Trail	899,000		899,000	899,000	54,026,000	1.66%
SCL	MTC	SCL070040	San Jose - Jackson Street Pedestrian Imps.		865,000	865,000	865,000	1,546,000	55.95%
SON	Santa Rosa Bus	SON070012	Downtown Transit Mall Connectivity Improvements	850,000		850,000	850,000	1,548,387	54.90%
SCL	Milpitas	SCL070037	So. Abel & So. Main Streetscape Imps. - Phase 1		850,000	850,000	850,000	1,300,000	65.38%
ALA	MTC	ALA070059	Livermore Downtown Pedestrian Improvements		845,000	845,000	845,000	1,094,000	77.24%
CC	Concord	CC-070030	Concord Blvd. Gap Closure, Phase 2		820,000	820,000	820,000	1,220,000	67.21%
ALA	San Leandro	ALA050078	Bay Trail Bridge at Oyster Bay Slough	750,000		750,000	750,000	3,820,000	19.63%
SF	SF Dept of Park	SF-070033	Inner Sunset Traffic Calming & Transit Enhancemnt	102,000	532,000	634,000	634,000	1,258,000	50.40%
SON	Rohnert Park	SON070001	Rohnert Park - City Center Plaza Pedestrian Imps	600,000		600,000	600,000	1,829,000	32.80%
SOL	Vallejo	SOL050048	Downtown Vallejo Pedestrian Enh. - Phase I		580,000	580,000	580,000	4,995,000	11.61%
SCL	Morgan Hill	SCL070027	West Little Llagas Creek Trail Phase II	543,000		543,000	543,000	697,000	77.91%
ALA	ACCMA	ALA050036	Alameda SMART Corridors Operations & Management	518,000		518,000	801,000	2,646,000	30.27%
SOL	Solano County	SOL050046	Old Town Cordelia Enhancements		500,000	500,000	500,000	830,000	60.24%
SCL	Gilroy	SCL070039	Gilroy 6th Street Streetscape West		459,000	459,000	459,000	656,000	69.97%
SCL	Los Altos Hills	SCL070025	Los Altos Hills - El Monte Road Pathway		440,000	440,000	440,000	634,000	69.40%
SON	Santa Rosa	SON070006	Santa Rosa Courthouse Square Enhancements		434,000	434,000	434,000	1,728,000	25.12%
SON	Sonoma County	SON070018	Western Avenue Bike Ped. Project		429,000	429,000	429,000	1,004,000	42.73%
SCL	Saratoga	SCL070038	Saratoga Village Pedestrian Enhancements		425,000	425,000	425,000	678,000	62.68%
ALA	Fremont	ALA070050	Mowry Ave Arterial Management	419,000		419,000	419,000	689,000	60.81%
SM	CCAG	SM-070037	San Mateo County Traffic Incident Management		367,000	367,000	367,000	10,467,000	3.51%
ALA	Hayward	ALA070052	Second Street New Sidewalk Construction	337,000		337,000	337,000	425,000	79.29%

**METROPOLITAN TRANSPORTATION COMMISSION**  
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**CMAQ Funding - Impacted by Minimum Share Requirement**  
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(Sorted by FY 2007-08-09 CMAQ Cost)

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SCL	MTC	SCL070010	Gilroy Pedestrian Enhancement		323,000	323,000	323,000	600,000	53.83%
SM	Colma	SM-070042	Colma - 'D' Street Pedestrian Enhancements	250,000		250,000	250,000	570,000	43.86%
SCL	Santa Clara Co	SCL070042	San Tomas Bicycle Shoulder Delineation - Phase 2		249,000	249,000	249,000	399,000	62.41%
MRN	San Rafael	MRN070016	Canal Street Ped Access		240,000	240,000	240,000	355,000	67.61%
ALA	AC Transit	ALA070047	TravelChoice-Berkeley	216,000		216,000	216,000	477,000	45.28%
SOL	Vacaville	SOL050060	Alternative Fuel Vehicle Incentive Program	200,000		200,000	400,000	503,000	79.52%
SM	San Mateo Co	SM-070039	Menlo Park - Santa Cruz Avenue Pedestrian Imps.	200,000		200,000	200,000	252,000	79.37%
SOL	STA	SOL991066	Eastern Solano / SNCI Rideshare Program	195,000		195,000	575,000	741,000	77.60%
SM	San Mateo Co	SM-070028	Mirada Surf Coastal Bike and Pedestrian Trail		181,000	181,000	181,000	971,000	18.64%
SOL	Vacaville	SOL070029	Ulatis Creek Bike Path - Allison to I-80		169,000	169,000	169,000	1,200,000	14.08%
SON	Healdsburg	SON050017	Healdsburg Foss Creek Bicycle/Ped Pathway		149,000	149,000	149,000	2,507,500	5.94%
ALA	BART	ALA070051	BART Station Electronic Bike Lockers, Phase 2	130,000		130,000	130,000	543,000	23.94%
ALA	MTC	ALA050060	Emeryville - San Pablo/MacArthur Bike/Ped Imps.		128,000	128,000	128,000	1,432,000	8.94%
SF	SF Dept of Park	SF-070036	San Francisco Bicycle Route Improvements	100,000		100,000	100,000	615,000	16.26%
ALA	Oakland	ALA050039	MacArthur Transit Hub Improvement Project	100,000		100,000	1,196,000	2,639,000	45.32%
SM	San Mateo Co	SM-070041	Middlefield Rd. and Barney Ave. Lighted Crosswalks		100,000	100,000	100,000	155,000	64.52%
SOL	Fairfield	SOL070027	W. Texas St. Gateway Project Phase I & II		85,000	85,000	85,000	235,000	36.17%
SM	San Mateo Co	SM-070040	Westborough Blvd. Bicycle Lanes Improvements	75,000		75,000	75,000	100,000	75.00%
SOL	Vacaville	SOL070026	Ulatis Creek Bike Path (Ulatis to Leisure Town)	37,000		37,000	37,000	1,001,000	3.70%
CC	Richmond	CC-070066	Central Richmond Greenway (East Segment)		20,000	20,000	1,020,000	2,133,000	47.82%
				56,429,000	64,201,000	120,630,000	179,043,000	2,504,289,518	7.15%