

## ITEM 9a

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DATE: October 14, 2022

TO: Governing Board

FROM: Ty Phimmason, Senior Planner

RE: Action – Adopt Congestion Mitigation Air Quality (CMAQ) Policy Update and Release Call for Projects

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### SUMMARY

There is about \$3 million of Congestion Mitigation Air Quality (CMAQ) funds to program to new projects. Staff recommends an update to the agency's CMAQ policy and requests the release of the Call for Projects for the available funds.

The Federal Highway Administration (FHWA) forbids the suballocation of Federal CMAQ funds. Regions must employ a project selection process to determine projects to program with these Federal funds. The exceptions are regionally-identified, Federally-accepted Transportation Control Measures, such as MCAG's rideshare and vanpool program, and the public outreach programs for transit.

### REQUESTED ACTION

1. Adopt the CMAQ Policies and Procedures update;
2. Adopt the Pioneer Road Funding Policy update; and
3. Direct staff to release a Call for Projects.

### BACKGROUND

Congestion Mitigation Air Quality (CMAQ) is a federal program, whose primary goals are to improve air quality and reduce congestion. CMAQ provides funding for transportation projects or programs that can be implemented quickly and that will contribute to a region's attainment or maintenance of the National Ambient Air Quality Standards for ozone and particulate matter (both PM10 and PM2.5). The San Joaquin Valley region is designated as nonattainment for ozone and PM2.5, and attainment for PM10. These are the three criteria pollutants for the Merced region.

Per the federal CMAQ program guidance, project/program eligibility criteria are as follows:

- It must be transportation-related;
- It must generate an emissions reduction; and
- It must be located in or benefit a nonattainment or maintenance area.

The Merced region receives about \$3.5 million in CMAQ funds per year. The MCAG Governing Board directs the programming of these funds to eligible projects sponsored by the local agencies. Some examples of eligible projects include:

- Transit service expansion and capital;
- Ridesharing, carpooling and vanpooling;
- Active transportation (bicycle and pedestrian) projects;
- Traffic signal synchronization;
- (Some) traffic flow improvements (e.g. roundabout, auxiliary/turn lane, signals synchronization, etc.);
- Paving dirt roads, shoulders, and alleyways; and
- Publicly-accessible electric vehicle charging stations.

In the past, MCAG has programmed CMAQ for a variety of purposes including transit projects and programs, rideshare marketing, vanpool program, bicycle and pedestrian projects, and traffic flow improvements.

## **PAST ACTIONS TAKEN**

- November 2019: MCAG Governing Board adopted the Pioneer Road Widening Funding Priority Policy.
- April 2021: MCAG Governing Board adopted the updated CMAQ Policies and Procedures and authorized the release of the Call for Projects.
- August 2021: MCAG Governing Board adopted Formal Amendment 4 to the 2021 Federal Transportation Improvement Program, which programmed \$6 million of CMAQ to projects.

## **DISCUSSION**

### **Policy Updates**

Along with the release of the next Call for Projects, staff recommends updates to the CMAQ Policies and Procedures to maximize public benefits and to minimize risks to the region's program funding. The following are key changes:

- Remove non-transit vehicle/equipment replacements and engine retrofits due to significant issue and delays with meeting Buy America requirements.
- Transportation Control Measures (TCMs), such as rideshare and vanpooling and public outreach for transit, are defined by the region as measures to help attain Federal Air Quality Conformity and thus be considered a priority for implementation.
- Since 2011, all San Joaquin Valley Metropolitan Planning Organizations (MPOs), including MCAG, adopted policies for distributing at least 20% of CMAQ funds to projects that meet a highly cost-effectiveness (HCE) threshold for emission reductions. (The cost-effectiveness threshold is \$63

per pound of criteria pollutant emission.) To achieve our region’s commitment, applications for HCE’s will be accepted until the region has met its 20% investment target.

- The Federal Highway Administration (FHWA) has updated tools for calculating emission benefits and cost-effectiveness of CMAQ projects. The policy is updated to point out the FHWA provides another tool for CMAQ benefits calculations.
- Priority to existing programmed projects is an unnecessary (redundant) policy due to practiced Expedited Project Selection Procedure (EPSP) and providing up to 20% CMAQ at the Director’s discretion for higher-than-expected bids/costs. As already practiced, if a future project is able to deliver earlier, MCAG could advance the project via Federally- and State-accepted EPSP. Also, if a project faces a funding shortfall, policy already exist to assist in order to implement the project.
- The Federal Highway Administration (FHWA) forbids the suballocation of CMAQ funds. Therefore, the Board’s Pioneer Road Widening Policy may no longer be applied to CMAQ funds.

The Federal Highway Administration (FHWA) forbids the suballocation of Federal CMAQ funds. Regions must employ a project selection process to determine projects to program with these Federal funds. The exceptions are regionally-identified, Federally-accepted Transportation Control Measures, such as MCAG’s rideshare and vanpool program, and the public outreach programs for transit.

**NEXT STEPS**

**Call for Projects**

The following is the proposed schedule for the 2022 CMAQ Call for Projects.

October 20	Update Policies and Procedures and authorize Call for Projects
October 24	Release Call for Projects
December 21	Deadline for applications
Week of January 3	Applications will be provided to the CMAQ committee for review
Week of January 9	CMAQ committee evaluates applications and recommends projects for programming
February 16	Governing Board action
Mid-April	Expected federal approval of FTIP amendment

**FISCAL IMPACT**

No impact to MCAG.

**COMMITTEE ACTIONS**

Committee Name	Committee Action
Citizens Advisory Committee	Approved staff recommendation
Technical Review Board	Approved staff recommendation

**REQUESTED ACTION**

1. Adopt the CMAQ Policies and Procedures update;
2. Adopt the Pioneer Road Funding Policy update; and
3. Direct staff to release a Call for Projects.

**STAFF CONTACT**

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**ATTACHMENTS**

CMAQ Policies and Procedures, Draft Update – October 2022

Pioneer Road Widening Funding Priority Policy, Draft Update – October 2022



## **Congestion Mitigation and Air Quality (CMAQ) Policies and Procedures**

*Draft – October 2022*

### BACKGROUND

Congestion Mitigation Air Quality (CMAQ) is a federal program, whose primary goals are to improve air quality and reduce congestion. CMAQ provides funding for transportation projects or programs that will contribute to attainment or maintenance of the National Ambient Air Quality Standards for ozone, carbon dioxide, and particulate matter (both PM<sub>10</sub> and PM<sub>2.5</sub>).

Per the federal CMAQ program guidance, project/program eligibility criteria are as follows:

- It must be transportation-related;
- It must generate an emissions reduction.
- It must be located in or benefit a nonattainment or maintenance area.

Designated as nonattainment for ozone and PM<sub>2.5</sub>, and attainment for PM<sub>10</sub>, Merced County receives CMAQ funds, which are received by the Merced County Association of Governments (MCAAG). Federal CMAQ apportionment levels are provided to regions for the Federal Transportation Improvement Program (FTIP) quadrennial period. The MCAAG Governing Board programs these CMAQ funds to eligible projects.

Some examples of eligible projects include:

- Diesel engine retrofits;
- Transit capital;
- Transit improvements;
- Transit management systems;
- (some) Traffic flow improvements;
- Bicycle and pedestrian projects;
- Alternative fuels – retrofits, vehicles, infrastructure;
- Ridesharing, carpooling and vanpooling; and
- Traffic signal synchronization.

~~MCAG has programmed CMAQ for a variety of purposes including transit projects and programs, rideshare marketing, diesel equipment replacements, street sweeper replacements, bicycle and pedestrian projects, and traffic flow improvements.~~

PROGRAM GOALS:

**Goal #1:** Achieve air quality conformity. This includes funding transportation control measures as needed.

**Goal #2:** Obligate all CMAQ funding allocated, losing none.

**Goal #3:** Supplement transit service as needed.

**Goal #4:** Implement the San Joaquin Valley Cost-Effectiveness Policy threshold, **which is to invest 20% of the current FTIP quadrennial CMAQ capacity on Highly Cost-Effective (HCE) projects.**

**Goal #5:** Fund quality-of-life projects, which are usable by the general public.

**Goal #6:** Fund projects that reduce Greenhouse Gas (GHG) emissions.

**Goal #7:** Fund projects that benefit Disadvantaged Communities.

To ensure quality-of-life and economic health in Merced County, the primary objective of the transportation system must be the safe and efficient movement of people and goods. Public transit is an economically and environmentally sound alternative to transportation by single occupancy vehicles (SOVs). Within Merced County, travel by public transit, by bicycle and on foot must be an attractive alternative. ~~To better achieve Goal 3 and “highly cost effective (HCE)” targets, MCAG shall promote the use of regional transit and the continued development of an integrated, reliable, regional public transportation system.~~

PROGRAM POLICY & PROCEDURES:

1. Staff will review and report project status at least once a year, or more frequently, as long as unobligated CMAQ balances exist in the current federal fiscal year.
2. Projects in jeopardy of failing to meet obligation deadlines may be postponed to the next fiscal year, and other projects that can be delivered quickly may be advanced, as necessary. ~~As capacities permit, these adjustments may be made at any time.~~
3. A CMAQ committee may be convened as necessary to review project implementation and make recommendations for programming adjustments.
4. Transportation Control Measures (TCMs) ~~and/or other air quality projects may be funded as needed to demonstrate~~ federally-required, air quality conformity **and are considered a priority for delivery.**

5. **The region is committed to invest** ~~Effort will be made to use at least~~ 20% of each four-year CMAQ total for highly cost-effective projects and programs (“HCE projects”). This is currently defined as those which cost ~~\$45~~ **\$63** or less per pound of criteria pollutant reduced. Priority will be given to HCE projects when applications are being considered. **Applications for HCE’s will be accepted until the region has met its 20% commitment.**
6. Emission benefits and cost-effectiveness will be calculated using the methods of the California Air Resources Board (ARB) **and those tools developed by the Federal Highway Administration (FHWA).**
7. A “Call for Projects” shall be issued, as needed, when CMAQ capacity is available for programming. Unless unforeseen circumstance warrants, the “Call for Projects” will occur every two years, which is when a new FTIP with two additional years of CMAQ capacities is being developed. CMAQ committee shall review, evaluate, **and score** project applications and recommend projects for programming.
8. Projects will be evaluated on a region-wide competitive basis with no geographic equity guarantees.
9. All project applications must document all of the following information:
  - Project total cost and CMAQ cost, by phase and by year;
  - Total emission reductions;
  - Cost-effectiveness of CMAQ dollars;
  - Project schedule.
10. Quality-of-life projects must include proof of public vetting. This may include letters of support, inclusion in an approved plan (i.e. Bicycle and/or Pedestrian Plan), minutes from public meetings/workshops.
11. The FTIP will be programmed with funding for the entire project based upon project delivery and funding availability, except for projects that request funding for Right-of-Way. For these projects, only Preliminary Engineering and Right-of-Way will be programmed in the FTIP. Once the Right-of-Way Certification has been secured, the project sponsor may request the programming of Construction funding, which will be dependent upon funding availability.
12. If a project has a cost overrun, if CMAQ capacity is available, the executive director has the discretion to program up to 20% of project cost on a first-come basis. If the cost overrun exceeds 20%, then the project will need to be adjusted or increased funding will require MCAG Board approval.
13. Delays and advancements of projects will be considered on a case-by-case basis. Significant changes to cost increase, schedule delay, or scope reduction will be presented to the MCAG Board for action.



14. If a project sponsor proposes to downsize significantly (from originally-approved scope), prior to obligation of CON funds, then project benefits will need to be reevaluated.
15. If project funding or savings gets deprogrammed, then it goes back into the overall CMAQ balance for reprogramming at the MCAG Board's discretion.
- ~~16. Given available CMAQ capacity, priority is given to the delivery of existing, programmed projects. Some examples include:
  - Programming priority will be given to projects that have completed prior programmed phases and are ready to proceed to their next phase;
  - If a bid is higher than the Engineer's Estimate, additional CMAQ may be authorized to assist with cost;
  - If a project (phase) is ready, then the project (phase) may be advanced.~~
17. Diesel off-road (pertains to construction) equipment replacements will no longer be considered. Federal Highway Administration (FHWA) has required official certification of title 23 (construction-related, and not for maintenance) eligibility and useful life documentation.
18. MCAG requires assurance of timely delivery of programmed CMAQ projects. Each project application must include a formal council/board action indicating that the project will meet project delivery schedules and that staff be directed to achieve those project milestones (i.e. federal environmental clearance; right-of-way certification; final project specifications and engineering).
19. MCAG will set aside CMAQ funds for the following, ongoing programs:
  - Public outreach, education, and marketing for "The Bus",
  - Public outreach, education, and marketing for Yosemite Area Regional Transportation System (YARTS); **and**
  - Rideshare ~~marketing~~; and vanpool program.
- ~~20. The MCAG Governing Board adopted a "Pioneer Road Widening Project Funding Priority Policy" in November 2019, which includes: "MCAG is hereby establishing the project as the priority for the following funding sources:....Up to 25% of Congestion Mitigation and Air Quality (CMAQ) funding for CMAQ eligible components of the project, if there are any, or more than 25% if such components are "highly cost effective" in air quality improvement per the CMAQ emission calculator. CMAQ is federal funding."~~
21. For paving dirt alleyways, the minimum vehicles per day (VPD) is 25 for each applied-for alleyway.

For dirt roadway and shoulder paving projects, the minimum average daily trip (ADT) is 500 for each applied-for roadway.

To align with the San Joaquin Valley Cost-Effectiveness Policy's goal to distribute at least 20% of CMAQ funds to projects that are Highly Cost-Effective (\$4563/lb. or less), the funding threshold for dirt road and shoulder paving projects is increased to \$1.5 million.

22. Highly Cost Effective (HCE) traffic flow improvements are to be considered higher priority than paving projects regardless of cost-effectiveness results. HCE refers to having a calculated benefit of \$4563 per pound of criteria pollutants or better. Project scoring will reflect this policy.
23. Projects on the State Highway System or projects that involve the railroad(s): Only CMAQ funding for Preliminary Engineering (Design and Environmental) will be programmed until Federal environmental clearance has been issued, **and CMAQ funding for the subsequent phase could be applied at the next Call for Projects.** For projects requiring right-of-way takes, CMAQ funding for Construction **may be not be applied for** ~~will not be programmed~~ until the Right-of-way Certification has been obtained from Caltrans.
24. ~~Projects with Construction < \$1 million will have 2 fiscal years (from the time of funding obligation) to secure the Federal environmental clearance or subsequent phases will not be funded and programmed. Jurisdictions may present case to the Board to preserve project funding.~~
25. ~~Projects with CMAQ funds approved for Right of Way will not get these funds programmed until after providing the Federal environmental clearance.~~
26. If the project's Construction is programmed in the FTIP quadrennial period and if the project demonstrates construction-readiness (Federal environmental clearance and Right-of-way Certification), MCAG will consider usage of Expedited Project Selection Procedure (EPSP) to advance the construction funding ~~in the Spring.~~
27. If the Federal Highway Administration (FHWA) deobligates (removes) a project's CMAQ funds, then MCAG will not ~~be~~ restore the CMAQ funding, and subsequent phases will be deprogrammed or not be funded and programmed. This FHWA deobligation of federal funding is due to the lack of project progress and "activity," which occurs when the project sponsor does not submit regular invoices to Caltrans for federal reimbursements of eligible work activities.
28. Electric vehicle charging stations, made available to the public, will be CMAQ-eligible. To ensure good use of public funding, a minimum of four charges per day is required for dual port charging stations. The project applicant must be a member jurisdiction.

CMAQ COMMITTEE:

The purpose of this Committee is to evaluation and score CMAQ applications as submitted during the "Call for Projects." The Committee will make a recommendation to the Board of projects/programs to award and program.

Membership of this Committee shall be composed of one representative from each of the following agencies: Atwater, Dos Palos, Gustine, Livingston, Los Banos, Merced, County of Merced, Caltrans District 10, and MCAG.

## PROJECT APPLICATION SCORING:

When sufficient CMAQ capacity warrants, staff will seek the Board's approval to release a competitive "Call for Projects." Staff will review and assess project applications for their completeness and CMAQ eligibility. The CMAQ committee, will be convened to evaluate and score project applications, and make a recommendation for programming. The following scoring factors will be used to rank the project applications.

- Cost-effectiveness: 20 points
  - Priority is given to Highly Cost-Effective projects ( $\geq$  \$4563/lb.)
  - If not a dirt road or shoulder paving project, score = 20 points if application is determined to be HCE, regardless of calculated cost-effectiveness score.
- Vehicle Miles Traveled Reduction: 10 points
  - Reduction of Vehicle Miles Traveled (VMT) results in reduction of GHG emissions
- Benefits Disadvantaged Community: 5 points
  - See <http://www.calepa.ca.gov/EnvJustice/GHGInvest/>
  - Partial points could be awarded if:
    - project location is partially in a disadvantaged community,
    - if not in a disadvantaged community, but benefits to one which could be explained.
- Subjective Evaluation: 15 points
  - Such considerations may include, but are not limited to: safety, functionality, connectivity, accessibility, improving quality of life, supportive of economic activity such as goods movement.
- Project Requesting CMAQ for Right-of-Way: -10 points
  - Projects without right-of-way acquisition(s) are preferred due to lower implementation cost and less risk of delay.
  - If right-of-way acquisition is required for a project, non-CMAQ funding (100%) could avoid this deduction.
- Construction-readiness: Up to 10 points. For Federalized projects, obtaining Federal environmental clearance is the first major milestone. The next is getting the Right-of-Way Certification.
  - + 5 points for Federal Environmental Clearance. If an applicant project already has achieved this milestone, then the project will be awarded 5 points.
  - + 5 points for Right-of-Way Certification. If an applicant project has an issued certification, then the project will be awarded 5 points.
  - +10 for Non-infrastructure Project/Program.
- Requiring railroad agreement: -10 points. It is often difficult to get timely communication and responses from railroads due to their workload, priorities, and limited staffing.
- Requiring utility relocation: -10 points. It is often difficult to get timely communication and responses from utilities due to their workload, priorities, and limited staffing.

Merced County Association of Governments (MCAG)  
**Pioneer Road Widening Project Funding Priority Policy**  
*Draft*

The Pioneer Road Widening Project in Los Banos has an estimated \$36.4 million shortfall for construction. \$8.65 million of Measure V West Side Regional Projects funds are currently committed to the project, through design and right-of-way. The City of Los Banos is the lead agency for this project.

MCAG is hereby establishing the project as the priority for the following funding sources:

1. All subsequent RTIP programming, including all capacity in the next (2022) STIP cycle.
2. Highway Infrastructure Program (HIP) funding. HIP is federal funding. About \$1.6 million is available now.
3. Local Partnership Program (LPP) formula funding. LPP is SB 1 funding administered by the California Transportation Commission and requires a 50% local match. An estimated \$600,000 per year is available, in FY's 2019-20 onward.
4. ~~Up to 25% of Congestion Mitigation and Air Quality (CMAQ) funding for CMAQ-eligible components of the project, if there are any, or more than 25% if such components are "highly cost effective" in air quality improvement per the CMAQ-emission calculator. CMAQ is federal funding. An estimated \$3 million (total CMAQ) is available in FFY 2020-21, \$500,000 in 2021-22, and \$3.5 million in years 2022-23 onward.~~

Subsequent actions will be necessary for each of these sources to commit/program funds. The above establishment is not transferable to other projects and is contingent upon the completion of a Project Study Report (PSR), which the City of Los Banos is estimating will be complete in 2020.