



September 29, 2014

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

Subject: **FHWA Docket Number FHWA-2013-0018**

Proposed modification to rules governing the Congestion Mitigation and Air Quality Improvement (CMAQ) Program – PM2.5 weighting factor determination, 23 CFR Part 790

The Montana Department of Transportation (MDT) respectfully submits the following comments in response to the Federal Highway Administration's (FHWA) proposed rule to revise the Congestion Mitigation and Air Quality Improvement (CMAQ) Program weighting factors for determination of PM2.5.

As a member of the American Association of State Highway and Transportation Officials (AASHTO), we have invested extensive staff time in the development of AASHTO comments filed to the docket and provide our support for these comments.

Specifically, MDT strongly urges inclusion of AASHTO's principal comment #5, which addresses the weighting factor for areas in which transportation sources are minor or insignificant contributors to PM2.5 nonattainment. Consideration for increased flexibility must be included in the application of PM2.5 set-aside requirements for nonattainment and maintenance areas where transportation sources are insignificant contributors to PM2.5 nonattainment as defined in current practice under implementation of the Clean Air Act.

As an example, Montana has a single nonattainment area for PM2.5. A 2003-2004 chemical mass balance study done by the state air quality agency found that residential wood combustion was primarily responsible for PM2.5 in the area, while the on-road contributors were insignificant. Even if pollutants from vehicle causes were eliminated entirely, the area would still be PM2.5 non-attainment. States, particularly those in rural mountainous areas where PM2.5 non-attainment is due to non-transportation sources such as wood burning stoves or off-highway, mining-related dust issues, need flexibility to optimize CMAQ spending strategies to address the most meaningful air quality improvement projects throughout the state.

In these instances, a weighting factor of zero should be used when transportation sources are determined to be an insignificant contributor to PM2.5 nonattainment. In addition, for PM 2.5 non-attainment and maintenance areas where transportation is more than an insignificant contributor but there's other non-transportation sources that are more than insignificant, a weighing factor of less than 1.2 but greater than zero should be applied. Then for all other PM2.5 non-attainment and maintenance areas, the current weighting factor of 1.2 should be maintained.

In FY 2009 Montana was a minimum apportionment state, receiving approximately 10% of our CMAQ apportionment due to air quality issues, and 90% because of the minimum apportionment provision.

However, this NPRM's calculation for the PM2.5 set aside derives a weighting factor which is then applied to a state's net CMAQ apportionment to arrive at a "...net CMAQ apportionment amount attributable to PM2.5 pollutants". In reality, since MAP-21 CMAQ apportionments are based on SAFETEA-LU levels, and only 10% of Montanan's FY 2009 CMAQ apportionment was based on air quality issues of any type, applying a weighted factor to Montana's net MAP-21 CMAQ apportionment amount results in a value that bears little relation to Montana's actual PM2.5 pollutants.

In developing the final rule, FHWA should consider the limited eligible opportunities states have to fund projects when faced with non-transportation related PM2.5 nonattainment areas and overstated PM2.5 set aside amounts due to being minimum apportionment states under SAFETEA-LU. Ultimately, states will make better use of funding, resulting in more air quality benefits, if flexibility is provided, as opposed to having little opportunity to use the narrowly focused set-aside apportionment due to a lack of transportation related improvement options.

MDT appreciates the opportunity to comment on this rulemaking.

Sincerely,

A handwritten signature in black ink that reads "Michael Tooley".

Director Michael Tooley
Montana Department of Transportation