

Memorandum

To: CHAIR AND COMMISSIONERS

CTC Meeting: March 12-13, 2008

Reference No.: 3.11
Information Item

From: CINDY McKIM
Chief Financial Officer

Prepared by: Terry Abbott
Division Chief
Local Assistance

Subject: **REPORT ON AB 1012 "USE IT OR LOSE IT" PROVISION FOR FEDERAL FISCAL YEAR 2006 UNOBLIGATED CMAQ AND RSTP FUNDS**

SUMMARY:

Congestion Mitigation and Air Quality Improvement Program (CMAQ) and Surface Transportation Program (RSTP) funds apportioned from the federal government are available for use by local agencies for four years. Assembly Bill (AB) 1012 (Chapter 783 of the Statutes of 1999) states that CMAQ and RSTP funds that are not obligated within the first three years of federal eligibility are subject to reprogramming by the California Transportation Commission (Commission) in the fourth year in order to prevent the funds from being lost by the State. The Department of Transportation (Department) is responsible for monitoring and reporting unobligated balances. Moreover, at the beginning of the third year, the Department provides notification to the local agencies of the unobligated CMAQ and RSTP balances that have one year remaining under the AB 1012 guidelines, prior to being subject to reprogramming.

The annual notice to regional agencies under AB 1012 "Use It or Lose It" provisions for Federal Fiscal Year (FFY) 2006 funds (October 1, 2005 through September 30, 2006) was sent out on November 19, 2007. As of September 2007, the total FFY 2006 funds subject to reprogramming under the provisions of AB 1012 were approximately \$77 million, including \$39 million of CMAQ equaling 51 percent of the balance subject to reprogramming and \$38 million of RSTP funds equaling 49 percent of the balance subject to reprogramming. The AB 1012 balances assume that all prior year funds subject to reprogramming will be obligated, extended, or reprogrammed, and therefore not included in this report.

As of December 31, 2007, the balance report shows the total funds subject to reprogramming for FFY 2006 are approximately \$74 million, of which \$34 million is in CMAQ funds and \$40 million is in RSTP funds. CMAQ funds account for 46 percent of the balance subject to reprogramming and RSTP funds account for 54 percent. The number of agencies with CMAQ balances and RSTP balances subject to reprogramming has changed since the original notification back in November 2007. At that time, there were 11 local agencies with CMAQ balances; as of December 31, 2007, there are nine local agencies. There are five local agencies with RSTP balances, which is the same as in November 2007. It is possible, that agencies may have more than one type of fund subject to reprogramming. The balances subject to reprogramming has decreased by \$3 million since the initial notification in November 2007. However, the balances may increase as a result of project

deobligations from the inactive project review process. Beginning in FFY 2006, several rural agencies are receiving CMAQ apportionments and Obligation Authority (OA), and the apportionments for these rural agencies are included in this AB 1012 balance report.

BACKGROUND:

The State annually receives CMAQ and RSTP funds from the Federal Highway Administration (FHWA), and the regions receive a share of these apportionments to fund local projects.

The Intermodal Surface Transportation Efficiency Act (ISTEA) was enacted in 1991 and was in effect for six years. During that time, local agencies were able to obligate only 87 percent of their federal funding. The next Transportation Act, known as The Transportation Equity Act of the 21st Century (TEA-21), was signed into law in 1998. During the first two years of TEA-21, local agencies' obligation of federal funds dropped to a low of 41 percent. As a result, by October 1999, local agencies had accumulated a \$1.2 billion backlog in federal apportionments and \$854 million in OA.

AB 1012 was enacted October 10, 1999, with a goal of improving the delivery of transportation projects and addressing the backlog of local agencies' federal apportionments and OA. Local agencies have successfully met and exceeded this goal. Beginning in FFY 2000, and continuing through FFY 2006, local agencies have been able to obligate 100 percent of the OA made available to them.

As a condition of AB 1012, the Department is required to notify the regions, on an annual basis, of the level of apportionments received that are subject to reprogramming. In addition, the regional agencies are required to submit obligation plans for CMAQ and RSTP balances older than two years. Regional obligation plans are due April 1, 2008. These obligation plans aid the Department when working with the agencies to meet the Guidelines for Implementation of the Timely Use of Funds Provisions of AB 1012, which is a requirement of the Department to ensure sufficient obligational authority is available to meet the needs of the regional agencies for projects contained in the submitted obligation plans.

In order to expend apportionments, local agencies require OA. FHWA released the total OA for FFY 2008 on January 30, 2008, and California has received its share. The Department is working on the distribution of OA for the regions and the State. It is expected that this will be completed within the next few weeks. However, the availability of OA could and does limit the ability of local agencies to expend apportionments for local projects.

Attachments

Apportionment Status Report
CMAQ RSTP
(as of December 31, 2007)

Reference No.: 3.11
Attachment 1

AB 1012
Balances entering the 3rd Year
(from FFY 2006)*
Summary Report

*Previously referred to as Cycle 9

Region	CMAQ Amount		RSTP Amount	
	CMAQ Unobligated 12/31/2008 Delivery Balance ¹	Subject to AB 1012 Reprogramming 11/01/2008 ²	RSTP Unobligated 12/31/2008 Delivery Balance ¹	Subject to AB 1012 Reprogramming 11/01/2008 ²
Butte	3,400,488	-	2,535,290	-
Fresno	20,804,272	-	24,597,042	5,080,208
Kern	22,971,737	7,245,592	19,991,393	3,839,515
Kings	3,092,703	76,701	1,615,492	-
Los Angeles	149,219,237	-	176,641,155	-
Madera	1,862,386	-	1,535,230	-
Merced	4,206,919	-	2,627,420	-
Monterey	905,830	-	6,798,775	-
Orange	56,228,548	-	42,060,124	-
Riverside	54,343,186	2,017,933	63,051,092	28,370,553
Sacramento (SACOG) ^{3,4,5}	15,770,125	-	22,996,225	-
San Benito ³	27,491	-	664,286	-
San Bernardino	71,212,245	17,965,456	26,835,382	-
San Diego	19,889,254	-	39,430,330	-
S.F. Bay Area (MTC)	117,658,965	-	84,722,788	-
San Joaquin	13,943,634	-	8,689,206	-
San Luis Obispo	-	-	4,501,218	-
Santa Barbara ⁴	670,747	-	4,983,293	-
Santa Cruz	1,126,075	-	3,189,556	-
Stanislaus	17,312,734	4,609,981	12,533,654	1,621,697
Tahoe	2,316,355	1,083,209	575,926	-
Tulare	7,201,792	-	4,592,387	-
Ventura	14,464,487	-	16,752,330	-
Rural Counties & SCAG ⁵	\$5,471,100	682,392	\$19,611,081	958,544
TOTAL	604,100,308	33,681,263	591,530,675	\$39,870,518

Balances now include:

* Difference between Advanced/Estimated Apportionments vs. Actual Apportionment for CMAQ & RSTP and CMAQ for FFY 2006-07.

Footnotes: (Includes FFY 2007 Estimated Apportionments for RSTP & CMAQ.)

¹ Indicates all apportionments not yet obligated.

² Totals reflect balance entering into the third year.

^{3,4,5} Includes adjustments made through MOU agreements between regions (San Benito, Santa Barbara & Imperial) and SACOG.

Balances are adjusted for projects using the State's Advance Construction process.

Assumes the use of all previous balances.

The regional balances reflect activities that have been recorded in the Department's Local Assistance accounting system. There may be a delay between the FHWA authorization and the recording of the transaction in the Department's Local Assistance accounting system.

Apportionment Status Report
CMAQ RSTP
(as of December 31, 2007)

Reference No.: 3.11
Attachment 2

AB 1012
Balances entering the 3rd Year
(from FFY 2006)*
Rural County Summary Report

*Previously referred to as Cycle 9

Region	CMAQ Unobligated 12/31/2008 Delivery Balance ¹	CMAQ Amount Subject to AB 1012 Reprogramming 11/01/2008 ²	RSTP Unobligated 12/31/2008 Delivery Balance ¹	RSTP Amount Subject to AB 1012 Reprogramming 11/01/2008 ²
Rural County Information:				
Del Norte	-	-	343,248	-
Humboldt	-	-	1,578,768	-
Lake	-	-	727,615	-
Mendocino	-	-	1,076,467	-
Lassen	-	-	444,816	-
Modoc	-	-	296,412	-
Plumas	-	-	263,724	-
Shasta	-	-	2,037,206	-
Siskiyou	-	-	654,875	-
Tehama	-	-	699,288	-
Trinity	-	-	251,902	-
Colusa	-	-	234,646	-
El Dorado	-	-	1,303,377	-
Glenn	-	-	330,097	-
Nevada ³	696,489	-	1,148,443	-
Placer ⁴	-	-	782,845	-
Sierra	-	-	131,204	-
Inyo	-	-	673,483	-
Mono	-	-	229,725	-
Alpine	-	-	131,208	-
Amador ³	390,822	-	437,999	-
Calaveras ³	1,049,976	234,482	506,057	-
Mariposa ³	424,595	107,567	213,758	-
Tuolumne ³	1,362,293	340,343	680,097	-
Imperial (SCAG) ^{3,5}	1,546,925	-	4,433,819	958,544
Rural Combined Totals:	\$5,471,100	682,392	\$19,611,081	958,544

Balances now include:

* Difference between Advanced/Estimated Apportionments vs. Actual Apportionment for CMAQ & RSTP and CMAQ for FFY 2006-07.

Footnotes: (Includes FFY 2007 Estimated Apportionments for RSTP & CMAQ.)

¹ Indicates all apportionments not yet obligated.

² Totals reflect balance entering into the third year.

³ Beginning in FFY 2006, these rural regions are now receiving CMAQ apportionments.

⁴ Balances for Placer County have been reconciled to correct negative balances shown due to a coding error.

⁵ Balances for Imperial adjusted to reflect a payback from SACOG per MOU.

Assumes the use of all previous balances.

The regional balances reflect activities that have been recorded in the Department's Local Assistance accounting system. There may be a delay between the FHWA authorization and the recording of the transaction in the Department's Local Assistance accounting system.