

Memorandum

To: CHAIR AND COMMISSIONERS

CTC Meeting: August 27-28, 2008

Reference No.: 3.9
Information Item

From: CINDY McKIM
Chief Financial Officer

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

SUMMARY:

Congestion Mitigation and Air Quality Improvement Program (CMAQ) and Regional 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 funds (or 51 percent of the balance subject to reprogramming) and \$38 million of RSTP funds (or 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 June 30, 2008, the total funds subject to reprogramming for FFY 2006 are approximately \$21 million, including \$5 million in CMAQ funds and \$16 million in RSTP funds. CMAQ funds account for 22 percent of the balance subject to reprogramming and RSTP funds account for 78 percent. There are five agencies with CMAQ balances and three agencies with RSTP balances subject to reprogramming. (Please note that agencies may have more than one type of fund subject to reprogramming.) The balances subject to reprogramming have decreased by \$56 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 with FFY 2006, rural agencies receiving CMAQ apportionments are included in the AB 1012 balance report.

On March 4, 2008, the federal government issued a rescission notice (Notice N: 4510.673) of the federal apportionments in the amount of \$297 million dollars. The California local share of the rescission totaled \$96.4 million, of which approximately \$69 million are CMAQ and RSTP apportionments. The adjustments to the regions impacted by the rescission are reflected in the quarterly report.

BACKGROUND:

The State annually receives CMAQ and RSTP funds from the Federal Highway Administration (FHWA). 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 Obligational Authority (OA).

AB 1012 was enacted on 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. The Department has received the regional obligation plans, which were due on April 2, 2008. These obligation plans aid the Department when working with the agencies to meet the timely use of funds provisions of AB 1012. These provisions require the Department to ensure sufficient OA 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. The local OA for FFY 2008 is approximately \$1.1 billion. This is an increase of approximately \$80 million more than what the Department was projecting to receive. The increased availability of OA will help local agencies to expend apportionments available to them.

Attachments

Apportionment Status Report
CMAQ and RSTP
(as of June 30, 2008)

Reference No.: 3.9
Attachment 1

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

Report Summary

Region	CMAQ Unobligated 6/30/2008 Delivery Balance ¹	CMAQ Amount Subject to AB 1012 Reprogramming 11/01/2008 ²	RSTP Unobligated 6/30/2008 Delivery Balance ¹	RSTP Amount Subject to AB 1012 Reprogramming 11/01/2008 ²
Butte	3,003,368	-	-	-
Fresno	17,749,347	-	20,518,806	2,046,303
Kern	17,063,163	1,291,352	11,949,665	-
Kings	2,426,449	-	0	-
Los Angeles	129,149,586	-	145,507,963	-
Madera	1,661,249	-	-	-
Merced	1,239,132	-	0	-
Monterey	492,037	-	1,177,183	-
Orange	44,295,871	-	38,189,414	-
Riverside ⁶	48,563,851	-	48,211,627	12,504,773
Sacramento (SACOG) ^{3,4,5,6}	6,564,505	-	15,020,830	-
San Benito ³	(14,961)	-	-	-
San Bernardino	55,425,748	2,231,110	23,466,211	-
San Diego	8,202,526	-	4,575,165	-
S.F. Bay Area (MTC)	56,289,692	-	(4,938,893)	-
San Joaquin	12,682,472	-	5,209,785	-
San Luis Obispo	-	-	938,256	-
Santa Barbara ⁴	610,922	-	-	-
Santa Cruz	905,638	-	(0)	-
Stanislaus	11,532,080	-	12,021,504	1,693,439
Tahoe	1,772,345	554,087	-	-
Tulare	1,155,484	-	-	-
Ventura	8,166,591	-	12,165,799	-
Rural Counties & SCAG ⁵	\$4,589,677	587,051	\$2,976,850	-
TOTAL	433,526,770	4,663,600	336,990,166	\$16,244,515

Balances include:

- * Difference between Advanced/Estimated Apportionments vs. Actual Apportionment for CMAQ & RSTP for FFY 2007.
- * Difference between Advanced/Estimated Apportionments vs. Actual Apportionment for CMAQ & RSTP for FFY 2008.
- * Recession amounts per Notice N: 4510.673 on March 4, 2008.
- * RSTP Exchange for FFY 2008 effective March 27, 2008.
- * NEPA Delegation contribution for FFY 2008.

Footnotes:

¹ Indicates all apportionments not yet obligated.

² Totals reflect balances in the third year.

^{3,4,5,6} Includes adjustments made through MOU agreements between regions (San Benito, Santa Barbara, Imperial & Riverside) and SACOG.

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 and RSTP
(as of June 30, 2008)

Reference No.: 3.9
Attachment 2

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

Rural County Summary

Region	CMAQ Unobligated 6/30/2008 Delivery Balance ¹	CMAQ Amount Subject to AB 1012 Reprogramming 11/01/2008 ²	RSTP Unobligated 6/30/2008 Delivery Balance ¹	RSTP Amount Subject to AB 1012 Reprogramming 11/01/2008 ²
Rural County Information:				
Del Norte	-	-	-	-
Humboldt	-	-	-	-
Lake	-	-	-	-
Mendocino	-	-	-	-
Lassen	-	-	-	-
Modoc	-	-	-	-
Plumas ⁶	-	-	(1,873)	-
Shasta	-	-	-	-
Siskiyou	-	-	-	-
Tehama	-	-	-	-
Trinity	-	-	-	-
Colusa	-	-	-	-
El Dorado	-	-	-	-
Glenn	-	-	-	-
Nevada ³	620,120	-	-	-
Placer ⁴	-	-	-	-
Sierra	-	-	-	-
Inyo	-	-	-	-
Mono	-	-	-	-
Alpine	-	-	-	-
Amador ^{3,7}	1,185,449	517,354	-	-
Calaveras ^{3,7}	591,056	-	-	-
Mariposa ³	383,487	69,697	-	-
Tuolumne ^{3,7}	555,176	-	-	-
Imperial (SCAG) ^{3,5}	1,254,389	-	2,978,723	-
Rural Combined Totals:	\$4,589,677	587,051	\$2,976,850	-

Balances include:

- * Difference between Advanced/Estimated Apportionments vs. Actual Apportionment for CMAQ & RSTP for FFY 2007.
- * Difference between Advanced/Estimated Apportionments vs. Actual Apportionment for CMAQ & RSTP for FFY 2008.
- * Recission amounts per Notice N: 4510.673 on March 4, 2008.
- * RSTP Exchange for FFY 2008 effective March 27, 2008.
- * NEPA Delegation contribution for FFY 2008-Imperial (SCAG) only.

Footnotes:

- ¹ Indicates all apportionments not yet obligated.
- ² Totals reflect balances in 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.
- ⁶ RSTP Exchange for FFY 2006-07 was calculated on the Estimate vs Actual RSTP apportionment. Because the actual apportionment was lower than the estimate, the RSTP exchange from Plumas was higher than it should have been. The RSTP exchange for FFY 2007-08 absorbed some of the negative balance and the exchange for FFY 2008-09 should absorb the remaining balance.
- ⁷ MOU was entered into between Amador, Calaveras & Tuolumne-balances adjusted accordingly. (MOU spans five FFYs).

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.